Montana WIC

Nutrition Program for Women, Infants and Children

Retail Reference Manual

Montana WIC Program
1400 Broadway, Cogswell Bldg C305
PO Box 202951
Helena MT 59620-2951

1-800-433-4298 or (406) 444-5533
Fax: (406) 444-0239

http://wic.mt.gov

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Introduction to WIC

WIC is a special supplemental nutrition program that is funded by the United States Department of Agriculture (USDA) and was first offered in Montana in 1974. WIC is administered in Montana by the Department of Public Health and Human Services through Local WIC Agencies.

WIC is a nutrition program for pregnant women, breastfeeding mothers, postpartum mothers, babies, and children up to five years old. Eligibility for the Program is based on a financial and medical or nutritional need.

WIC provides foods that are specifically recommended to improve each participant's diet. For Montana families, the WIC food package helps to stretch the family food budget. Participants can only buy the types and quantities of foods printed on their benefits. It should be noted that the foods supplied through WIC are not intended to serve as a complete diet, but to supplement the foods already being consumed by the participant.

WIC provides nutrition education to help participants learn the importance of good nutrition for good health.

WIC staff assist participants in receiving regular medical care. Staff members see that pregnant women receive prenatal care, and that infants and children receive routine checkups.

WIC activities are carefully coordinated so appropriate action can be taken during critical stages of growth and development.

Role of the WIC Retailer

WIC retailers play an important role in the WIC Program. The WIC benefit contains food designed to supplement the WIC participant's nutritional needs. Retailers act as the final step in the WIC process. A WIC participant redeems benefits at a WIC approved retailer, allowing the participant to receive their prescribed food package. The retailer's role is vital to the success of the WIC Program because the nutritious foods received at a WIC approved retailer are designed to promote the healthiest possible birth outcomes, as well as the growth and development of children.

Types of WIC Retailers

Grocery store

A store that sells a variety of food items may be authorized to sell all WIC foods and the basic formulas. These stores are required to carry the minimum stock of all WIC foods and basic formulas.

Farmers

Farmers may be authorized to sell eligible fruits and vegetables through the redemption of the Fruit & Vegetable Benefit.

WIC Food Delivery System

About every three months, a WIC participant visits a WIC clinic and receives a specific quantity of WIC benefits. The benefits specify the types and quantities of food that may be purchased, using the Approved Food List as a guide.

The participant uses WIC benefits to purchase the prescribed foods from any authorized Montana WIC retailer. The participant must use the WIC benefits during the valid time period indicated on each benefit. The store deposits the redeemed benefits to their bank. An electronic copy is made and sent to the WIC bank. The benefit is reviewed for errors before payment is made.

Retailer Authorization and Selection Criteria

The Montana WIC Program has established criteria to evaluate and select retailers for initial and continuing participation in the WIC Program. Using the established criteria, the Montana WIC Program will authorize food retailers in order to assure adequate participant convenience and access and that food dollars are spent efficiently. The Montana WIC Program may limit the number of participating retailers to assure that state and local officials can effectively manage the evaluation and monitoring of authorized retailers.

Retailers, who wish to accept Montana WIC benefits must complete an application process, meet the following requirements and be approved to take WIC benefits. A WIC Application Form and WIC Food Price Survey must be submitted to the State WIC Office to begin the process. The retailer MOU indicates the selection criteria that will be used and the stocking requirements that will be reviewed prior to WIC authorization of a retailer.

Initial Application Criteria

- Has passed the most recent inspection by the local sanitarian.
- Within the last six (6) years, neither the business nor any of its owners, officers or managers has been convicted of or had a civil judgment entered against them for any activity indicating a lack of business integrity.
- Is SNAP authorized (Supplemental Nutrition Assistance Program, formerly known as Food Stamps.)
- Receive or be expected to receive no more than fifty percent (50%) of your stores total annual food sales from WIC transactions.

- An owner, officer, or partner of a retailer must not have bought or sold a store in order to avoid a WIC sanction.

- Their food prices are equal to or under the maximum amounts authorized for their assigned peer group.
  - ◊ Competitive prices are required by federal regulations.
  - ◊ Competitive prices allow a price limit per peer group to exist creating a funding limit, per food package. This helps maximize the available funds to its greatest potential.

- Their infant formula prices are equal to or under the maximum amounts authorized for their assigned peer group.

- To ensure the safety of infant formula, it must be purchased from the Montana WIC Program's approved Formula Wholesaler/Distributor/ Retailer/Manufacturer list.

- The vendor must be a primary retailer of groceries and stock a variety of foods in each of the following staple food groups on a continuous basis:
  - ◊ Fresh or frozen meat, poultry and/or fish (pre-packaged luncheon meats do not apply)
  - ◊ Bread and cereal
  - ◊ Fresh fruit and vegetables, and frozen vegetables
  - ◊ Dairy products.

- Has the minimum food stock required by the Montana WIC Program.

- Provides 1-Stop/Tribal License, proof of Workers Compensation and Liability Insurance.

- Based on Local Agency input and regional assessment, it is determined that there is a need for an authorized WIC retailer in the requested area.

- No barrier to service exists.

- Inform the Department of any potential or real conflict of interest between WIC staff, either state or local, and Contractor personnel. Conflicts of interest may include, but are not limited to, the following:
  - ◊ Employing a state or local WIC agency staff member or spouse, son, daughter, parent or sibling of a local or state WIC agency staff member.
  - ◊ Giving a fee or gift to a local or state WIC program staff member in exchange for being provided WIC information, for

WIC staff action that would materially benefit the Contractor, or for preferentially promoting the Contractor. (Note: Donations to a promotional event encouraging WIC participation are not considered to create a conflict of interest.)

- ◊ Entering into a business transaction with a local or state WIC staff member or allowing such a staff member to acquire a pecuniary interest in the Contractor.
- ◊ Accepting, either directly or through a relative, a substantial gift of financial assistance from a local or state WIC staff member.

WIC Retailer Memorandum of Understanding

A Retailer who has been approved for authorization will enter into an Memorandum of Understanding (MOU) with the Montana Department of Public Health and Human Services (DPHHS) to participate in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

After the Retailer MOU has been reviewed, it will be signed by the owner or designate of the store and DPHHS. Any change in ownership or sale of business during the effective period of the MOU will render it null and void. The WIC Program's Retail Services staff must be informed immediately of a change in store ownership, cessation of operation, renewal of liability insurance and One Stop License, or relocation.

The Retailer MOU may be valid for 1 year upon initial authorization and for up to three years upon subsequent authorizations. A Retailer must meet the selection criteria at each application in order to be authorized as a WIC Retailer. Expiration of the Retailer MOU is not subject to appeal.

Retailer Re–authorization

The Montana WIC Retailer MOU may be valid for a time period of up to three (3) years. Montana WIC will determine the end date of the contract before it is issued. Prior to subsequent authorization of the retailer, a review of the retailer file will take place and a determination made to offer the retailer the option to apply for reauthorization. Reauthorization evaluation will include a review of the retailer’s history with the WIC Program and SNAP.

Subsequent Authorization Standards

In addition to maintaining the standards for the initial application, a subsequent applicant must also meet the following standards:

1. Has attended the required WIC training.
2. Has successfully resolved and responded in writing, to all problems brought to their attention by the WIC Program within a sixty (60) day period.
3. Retailers applying for reauthorization must submit an application within the requested timeline to avoid expiration of their current authorization.

Items to be Reviewed and Evaluated Prior to Reauthorization

⇒ WIC benefit redemption information;
⇒ Complaints, timeliness of price surveys, violations and/or sanctions:
⇒ Monitoring and Compliance Reports;
⇒ Review of any questionable SNAP information with Montana SNAP Officer-in-Charge;
⇒ Maintenance of a minimum participant base;
⇒ Review of retailer's attendance at trainings;
⇒ Review to ensure the retailer maintained the minimal WIC sales base

Re–authorization Process

Retailers whose files pass the "Re-authorization Review" will be sent a packet to apply for subsequent authorization. Retailers not passing the "Reauthorization Review" will be sent a letter explaining the concern of the WIC Program. A written response or corrective action plan will be required. If these concerns cannot be resolved, a subsequent application will not be issued.

Upon receipt of the completed application form, the Retail Services staff will compare the information to that on file. Any changes will be documented and verified. If all information is deemed acceptable, three copies of the DPHHS/ WIC MOU will be issued to the retailer. All copies must be returned to the DPHHS Contract Officer. In cases where the MOU is signed and maintained at the corporate headquarters, a copy of the signed MOU will be sent to the store's manager.

If items reported on the application form are not acceptable, a letter will be sent to the retailer/farmer describing the problems and requesting a written

response or corrective action plan. The MOU will not be issued until all matters are clarified to the satisfaction of Retail Services staff.

Ending the Retailer MOU

Expiration of the MOU

Neither Montana WIC or the retailer has an obligation to renew the MOU. Expiration of an MOU is not subject to administrative review.

If the MOU expires without subsequent authorization, the retailer must return the retailer stamp to Montana WIC on the expiration date of the MOU.

Termination of the MOU

Montana WIC will terminate a retailer MOU:

- If either party requests cancellation in writing with a thirty (30) day notice;
- If the retailer is disqualified from SNAP;
- If the retailer fails to comply with any part of the MOU;
- Immediately if ownership changes; or if it is determined that false information was provided on the application.

If ownership changes, please contact the State WIC Office for review of the new ownership situation.

The retailer stamp must be returned to Montana WIC on the termination date of the MOU.

Change of Location

A change of location may affect the WIC authorization. The Montana WIC Program must be notified in writing of any change of location. Authorization will not be affected if:

- The ownership remains the same.
- The old location is being closed, and the new location is considered a 'replacement' location.
- The new location is within two (2) miles of the old location.

Failure to notify the Montana WIC Program of a change in location will result in loss of WIC authorization.

Change of Ownership

The authority to participate in the Montana WIC Program is not transferable. The Montana WIC Program must be notified in writing of any change of ownership. A change of ownership can be, but is not limited to:

- A partial change of ownership (i.e., one partner buying out another).
- A complete change of ownership (i.e., an outside interest purchases the business).
- A change in corporate structure (i.e., going from 'sole proprietor' to 'corporation').
- Whenever the Federal Employer Identification Number (FEIN) changes, the retailer must re-apply for WIC authorization as an initial applicant. Failure to do so will result in loss of WIC authorization.
- The Montana WIC Program may not authorize an applicant if it is determined that the business was sold to circumvent a WIC sanction. If such determination is made after authorization is granted, the authorization (WIC MOU) will be terminated.

Policies and Procedures

It is the responsibility of the WIC retailer to follow the policies and procedures of WIC. These responsibilities include but are not limited to the following:

1. Comply with requirements specified in the Retailer MOU and this Montana WIC Retailer Reference Manual.

2. Purchase infant formula from the Approved List of Infant Formula Wholesalers/Distributors/Retailers/Manufacturers **only**.

3. Maintain an adequate supply of required WIC foods with future expiration dates on the shelves at all times.

4. Accept and process WIC benefits only within the confines of the store.

5. Post the "We Accept WIC" decal in a highly visible location on or near entrances to the store.

6. Assure that WIC participants purchase only the WIC foods identified on the WIC benefit and the Approved Food List.

7. Give all WIC participants the same service and courtesies as non-WIC

customers.

8. Accept properly redeemed WIC benefits within the time period printed on the face of the benefit.

9. No money can be exchanged, either giving change to the WIC participant or requiring money to be paid for redemption of a WIC benefit. WIC Participants are allowed to purchase greater amounts of fresh fruits and vegetables than is specified on their benefit and pay the price difference. This is not considered exchanging money in a WIC transaction because the fruit and vegetable benefit must be fully redeemed first, and any amount paid over is not considered part of the WIC transaction.

10. At least one key employee is required to attend/complete all required training. That employee is then responsible to train all employees on WIC procedures and distribute WIC materials.

11. Train all store staff on WIC policy and benefit redemption procedures.

12. Keep the current WIC Retailer Booklet/Food List at each cash register.

13. Submit timely, **accurate** Price Surveys of listed foods as requested by the Montana WIC Program.

14. Cooperate with WIC officials when the store is being evaluated or monitored and resolve problems with benefits and participants.

15. Notify the Local WIC Agency or the Montana WIC Program in writing at least thirty (30) days in advance of when the store ceases operation, changes ownership, name, or location. In these instances, except for a name change and/or close proximity location change, the Montana WIC Program shall terminate the retailer MOU.

16. Compliance with the retailer selection criteria must be maintained throughout the MOU period, including any changes to the criteria.

17. Retailers may use shelf talkers or channel strips using the service mark or the WIC logo to identify WIC-approved products, including channel strips or shelf talkers provided by manufacturers if they have been submitted to the State office and received approval, or have been issued by the Montana WIC Program.

18. Authorized retailers and manufacturer contractors may not apply stickers, tags, or labels having the service marks thereon to WIC- approved products.

19. Stores may not offer incentives such as free items, prizes or discounts solely to WIC participants.

Retailer Training

Retailer education and training is directed at reducing errors, preventing abuse and improving program services. Retailer training is also designed to be consistent statewide. Retailer training may be conducted for the following reasons:

- Retailer is newly authorized
- Retailer requests training
- Required annual training, which must be an interactive session at least once every three years
- Retailer is one of a pool of authorized Montana WIC authorized retailers selected for routine monitoring
- Any non-compliance with the Montana WIC Retailer MOU
- Retailer is identified as probable high-risk

Training at Authorization

The State or Local Agency will provide training to all retailers at initial authorization. Training is mandatory, must be face to face and must be completed before the store is allowed to accept WIC benefits. Retailer training is designed to assure the most effective, efficient and courteous delivery of service to WIC participants. Retailer training will provide, at a minimum, an understanding of:

- The purpose of the WIC Program
- The terms of the Retailer MOU
- The procedures for handling WIC benefits
- The sanctions that can result from incorrect administration of the program rules and regulations

Required Training

- At least one representative of each retailer is required to participate in interactive training at least once every three years. Training must be completed or reauthorization will not take place.

- Interactive trainings may take place as part of Routine Retailer Monitoring visits. USDA requires that at least eight specified topics be discussed in the

interactive trainings.

- Failure to attend training will result in disqualification from the Program for twelve (12) months.
- ***It is the responsibility of those who attend training to ensure that the information is shared with the rest of their staff.***
- Retailers will be held accountable for the actions of all owners, officers, managers, agents, employees and personnel, paid or unpaid, who may be involved in WIC transactions at the Retailer's store.

Annual Training

The Montana WIC Program will provide training annually through media contacts such as, but not limited to letters, a DVD or the Retailer Newsletter.

Additional Training

- Mandated training may be deemed necessary when the Montana WIC Program determines a particular retailer needs it.
- The Montana WIC Program will also provide training at the request of the retailer.

Stocking Requirements

Constant availability of WIC foods is an important component of the WIC Program. Participants should be able to purchase all food prescribed on the WIC benefits when they shop at participating WIC retailers.

In order to assist retailers, minimum variety and quantity stocking requirements are implemented. These requirements outline WIC's expectations of what should be available to the participants at all times. They help the retailers keep better track of WIC food items and provide WIC participants the assurance they will be able to use their WIC benefits at the authorized retailer at any time.

The Retailer agrees to routinely stock the varieties and minimum quantities of WIC approved foods as specified on the WIC Approved Food List. **Refer to**

the Retailer Reference Manual page 50 & 51 for the details of the Minimum Stocking Requirements for WIC authorized retailers.

Current Infant Formula on Contract with WIC

- The following formulas are required to be stocked by all retailers unless an exemption is on file.

Similac Advance	12.4 oz	powdered
Similac Sensitive	12.6 oz	powdered
Enfamil Prosobee	12.9 oz	powdered

- All infant formulas must be purchased from the Montana WIC approved Infant Formula Wholesaler/Distributor/Retailer/Manufacturer list, available online at: http://www.dphhs.mt.gov/wic/documents/MTAuthorizedSitesApril12.pdf
- Retailers are not allowed to knowingly exchange returned infant formula for a different brand or type if it can be established that the formula was purchased with WIC food benefit. If the retailer can identify that the infant formula was originally purchased with WIC food benefits (receipt or other means), then the retailer should politely instruct the participant to return the unused cans of infant formula to the clinic of issuance. Clinic staff will discuss the problem with the participant.

- Infant formula found to be "defective" may be exchanged for the same brand and type of formula originally purchased.

Exemptions for Infant Formula, Infant Cereal and Baby Food

Retailers who do not have any infants on the WIC Program that utilize their store may contact the State WIC Office to request an exemption to the stocking requirements.

If granted an exemption, the retailer must be able to supply the infant formula, infant cereal and/or baby food within 24-48 hours if a request for these WIC food items is received from a participant. If the retailer is unable to supply the infant formula, infant cereal or baby food within the 24-48 hour time frame, the retailer must contact the State WIC Office to request an exemption be made to extend the time frame to within five (5) days. The retailer must also post a visible sign in the infant section of the store stating the contact information to order infant formula, cereal, or baby food.

The State WIC Office will make a determination if an exemption can be granted in all cases. The retailer will then either be issued an exemption or be given notice that they must meet the stocking requirements.

Infant Formula Rebate

The WIC Program participates in an infant formula rebate program as required by Federal Regulations. The Montana WIC Program contracts with an infant formula manufacturer using a competitive bid process. The Montana WIC Program agrees to purchase the manufacturer's formula and in return, the manufacturer agrees to pay a rebate for each container of their infant formula purchased through the WIC Program. The infant formula rebate program provides Montana WIC with additional food dollars, allowing the program to serve greater numbers of eligible participants.

WIC participants select an iron-fortified formula from a list of approved products. Once the participant selects a particular formula, the name of that formula will be printed on the benefits issued to that participant.

The formula printed on the benefit is the ONLY brand, container size and type of formula the participant may purchase. If a retailer has a problem supplying a particular infant formula, please notify the Local Agency or State Office.

In certain situations, medical formulas prescribed by a physician are provided by WIC for participants with medical conditions. These medical formulas may or may not result in a rebate to the program.

Retailer Stamp

Each Retailer is assigned and issued a unique four digit identification number and ID rubber stamp. WIC stamps will be provided to Retailer at no cost. No store should use a Retailer stamp not issued by the WIC Program without prior approval.

Each WIC benefit accepted at a store must have the identification number stamped on it before being deposited at the bank.

As a result of the federal law "Check 21", all WIC benefits are processed using electronic images. This means when WIC benefits are deposited, an

electronic image of the benefit is sent to the WIC bank for processing. Retailer stamps should be a solid impression of the stamp as the numbers link your store to the benefit. Sometimes benefits are rejected due to illegible stamps, but the stamp imprint was clear on the original benefit. This is likely due to the fact that image quality is poor. You can also work with your bank to ensure that the images it creates are as clear as possible.

Here are a few recommendations to help reduce the risk of items being returned or rejected because of legibility issues.

- The stamp needs to be solid and dark.
- Place the stamp right side up and inside the box on the benefit.
- Imaging of a light stamp may be illegible.
- Too much pressure can make a stamp difficult to read because the numbers blur together when imaged.
- Clean the stamp with acetone or nail polish remover to make the stamp imprint clearer to the imaging system.
- Use black ink in the stamp pad.
- If your stamp is worn out, call the State WIC office and request a replacement.
- If your store closes or changes owners, the WIC stamp needs to be returned to the State WIC office.

WIC Benefits (Checks)

Montana WIC food benefits are issued by each local WIC clinic who serve the WIC participants. All Montana WIC food benefits are generated by a computer and printed automatically.

- The food benefit tells WIC participants what foods they can purchase. The foods purchased must be listed on the benefit and on the WIC approved food list. *Remember the WIC participant does NOT have to purchase all of the foods listed on the benefit.*

- The Fruit & Vegetable Benefits are for a fixed amount as stated on the front of the benefit. If the total cost of the fruit and vegetables that were selected for purchase on WIC benefit exceeds the maximum amount printed on the Fruit & Vegetable Benefit, the participant may pay the difference or put merchandise back to be at or below the amount printed on the benefit.

- Participants can use their benefits at any Montana WIC authorized retailer.

WIC ID Pages of the Participant Booklet

WIC benefits must always be accompanied by a WIC Participant Program Booklet. The back page of the Participant Booklet shows the names of who can cash the benefit. One of the signatures on the ID page must match the signature on the bottom right of the benefit. Sometimes a person other than a parent or guardian may be authorized to sign the benefit. Such a person is referred to as an authorized representative or proxy and that person's signature will be on the WIC ID page of the Booklet.

The person redeeming the benefit may not write their name on the ID page at the time of the transaction.

Peer Groups

Peer groups facilitate the application of competitive price criteria at authorization and during the benefit redemption process.

- Peer groups are defined by a set of criteria-geographic location, ownership type, number of cash registers and square footage.
- Retailers are objectively assigned to a peer group using the criteria.
- Statistical analysis on peer group prices vs individual retailer prices is used to validate the appropriateness of the peer grouping criteria.
- Competitive price criteria are determined for each peer group.
- Allowable reimbursement levels are determined for each peer group.

Cost Containment

Competitive pricing systems foster financial integrity and the most efficient use of WIC funds, which enable the program to serve potential WIC participants with the current food budget.

- All Retailers will be held to competitive prices within their assigned peer group. Shelf prices will be collected and then prices will be averaged per peer group per food item.
- Retailer shelf prices must remain under the maximum price allowed, which is a percent above the peer group's average price for that food item. The retailer will be notified and must reduce prices to within the maximum price allowed.
- Approved Food List choices are made with consideration to food item

costs, availability and participant choice.

- Montana WIC does not authorize above 50% retailers. Over 50% retailers receive more than half of their total annual food sales from WIC transactions. Each year a report is run which compares SNAP sales to WIC sales. All retailers on this report will be asked to submit documentation of annual food sales, in order to verify that the store is not an over 50% retailer.

Price Surveys

All WIC-authorized retailers are required to submit shelf price surveys. Shelf price surveys list a sample of WIC-authorized foods and formulas. Retailers report the most expensive store prices for each of the food items and formulas listed. These surveys are one of the most effective tools for managing competitive pricing within the retailer peer groups.

Survey data will be reviewed to determine whether retailers are within required pricing limitations. Survey data is also used to establish a database of prices and to help resolve redemption issues. Surveys are conducted twice per year and are required with an initial application.

Shelf Tags

State issued shelf tags may be used to identify WIC approved items in the store. The tags must be posted under the correct food items, and moved with the item if its location changes. If a retailer chooses to use shelf tags, they must use them on all WIC-authorized food items in the store. Contact the State WIC office for additional sets of tags.

Overview of the WIC Transaction

It is critical that retail staff understand and follow the correct WIC benefit cashing procedures. The following guidelines must be observed when handling WIC benefits:

1. The customer should separate WIC foods from other grocery items. When using more than one benefit, foods should be separated by benefit.

2. Ask to see the Montana WIC Participant Program Booklet. DO NOT ACCEPT any food benefits without it. Hold onto the booklet so the signatures can be compared at the end of the transaction.

3. Check the dates. Benefits cannot be used before the "First Day To Use" or after the "Last Day To Use." Enter the date of use. Remember: Your store will not be reimbursed for checks accepted outside of the use dates. (See Rejected Benefits section).

4. Use the foods listed on the benefit to check the items being purchased. Make sure the foods are listed on the Approved Food List and that the amounts purchased are correct. Verify missing items with the participant prior to finalizing the WIC purchase, but remember, participants do not have to purchase every item listed on the benefit.

5. Total the purchase using any coupons or store card discounts the participant may have and write the amount on the benefit.

⇒ If the benefit total is written over or entered incorrectly, put one line through the amount and write the correct amount in the correction box and have the participant initial the change.

⇒ The total of the Fruit & Vegetable Benefit may not exceed the maximum value written of the benefit. Enter the actual amount of sale if it is at or below the amount printed on the benefit. If the cost of the fruits & vegetables selected for purchase exceeds the maximum value written on the benefit, enter the maximum value of the benefit and the participant may pay the difference. Do not write the amount of overage on the benefit.

6. Ask the WIC participant to sign the benefit. Compare the signature on the benefit with the signature on the ID Page. If the signature does not match, do not accept the benefit.

7. Endorse the benefit, give the WIC participant a receipt and return their Participant Booklet.

8. The retailer's bookkeeper reviews the benefit for accuracy before deposit. Stamp the benefit with the Authorized Retailer's WIC stamp using a black ink pad.

Correcting Errors Before Deposit

It is recommended that the bookkeeper review redeemed food benefits for redemption errors prior to depositing at your bank.

The following errors can be corrected before deposit:

⇒ If the **purchase price is missing,** view a copy of the electronic transaction or a copy of the receipt to find out the correct total and write the total on the benefit. Deposit to bank.

⇒ If the purchase price is **unclear or not legible**, use a black pen to correct the price. To make a correction that is **equal to or less than** the original amount, place a single line through the price and write the corrected price in the correction box and initial the change. Deposit to the bank.

⇒ If a mistake is made or a food item is added during the transaction and the **adjusted price is higher** than the original price, submit the benefit and a copy of the transaction receipt to the State WIC Office for review and approval **before** depositing the benefit to the bank.

⇒ If the WIC participant or proxy **signature is missing,** call the Local WIC Agency and request that ***they*** contact the participant and have them return to the store to sign the benefit. Document this contact with the "Missing Signature" form (page 52). After the participant comes in and signs the benefit, deposit to the bank. If the participant does not return to the store within ten days, submit the benefit and documentation to the State WIC office for review. Benefits deposited without a signature will be rejected and are not eligible for review or redeposit.

⇒ Check to be sure the stamp has been placed legibly in the stamp box.

⇒ Benefits deposited without a signature, redeemed before the "First Day to Use" or after the "Last Day to Use", or with the purchase price missing will be rejected from the bank and are not eligible for State review and approval.

⇒ Call the State WIC Office with any questions regarding check redemption.

Rejected Benefits & Reduced Payment

Where do WIC benefits go after they are cashed at your store and deposited with your bank? The benefit is processed through the Federal Reserve System and is presented to WIC's financial intermediary.

Because of federal Check 21 regulations, banks have the option of returning a legal electronic copy of the food benefit, called an IRD, back to the retailer rather than the original when returning a rejected WIC benefit. This legal

copy is about 2/3 the original size and may be used the same as the original. The bank will stamp the reason for the rejection on the front of the food benefit.

The financial intermediary performs a “pre-edit” on each benefit to determine whether or not it meets WIC’s requirements for payment . If a benefit does not pass this “pre-edit” test it will not be paid. It will be returned to your depository bank with a stamp indicating why it was not paid. Your bank will return the benefit to you and may charge you a fee.

The bank evaluates the benefits for various items. For example:

- Whether the food benefit has a valid retailer stamp with a legible retailer number and date of transaction;
- Whether the date of transaction is between the first and last days to use;
- Whether the food benefit has an authorized signature in the proper box;
- Whether the benefit has a total amount written in the “Amount of Sale” box.
- Whether the total exceeds the maximum reimbursable amount.
- Whether the food benefit was deposited to the bank within 60 days of the “First Day to Use”.

The retailer CANNOT contact the WIC participant either to correct a food benefit problem or require payment from the WIC participant because a WIC food benefit has been or will be rejected.

Food benefits redeemed prior to the “First Day to Use” or after the “Last Day to Use "will not be paid or accepted for review and validation. Food benefits that are sent to the bank more than 60 days after the “First Day to Use”, or are missing the total amount in the “Amount of Sale” box, or were deposited without a WIC participant signature will not be paid or accepted for review and validation.

If the only reason a food benefit was rejected is because of a “Missing Retailer Stamp” the retailer may stamp the front of the food benefit or the legal copy of the food benefit and resubmit it to the bank without sending it to the State office for validation.

Food benefits rejected for “Adjusted $ Amount” or “Over Max $” must be submitted to the State WIC office with a printed copy of the electronic transaction or a copy of the transaction receipt for review, possible adjustment, and approval or void validation.

Retail staff is not allowed to make any alterations to the original printing on

the food benefit. Doing so is a violation and may cause a sanction to be assigned to the retailer.

State Office Validation of Rejected Benefits

The State office staff reviews each rejected food benefit it receives in the mail from the retailer. The State Office staff must validate and approve the food benefits before the bank will consider payment. An approval stamp is placed on the benefit by the State Office staff and the food benefit or the legal copy of the food benefit is mailed back to the retailer for re-deposit.

For those food benefits that were rejected because of being over the allowable maximum amount, the printed copy of the transaction or receipt is reviewed to determine whether correct items were sold and whether the prices that were charged are allowable. The Montana WIC Program may make price adjustments to the total purchase price on food benefit submitted by the retailer for redemption to ensure compliance with the price limitations applicable to the retailer.

Food benefits sent to the State office for review after 60 days from the "First Day to Use" will not be approved for re–deposit.

Summary of Benefit Rejection Reasons

Missing Retailer Stamp
The WIC benefit was not stamped..

Stamp the benefit clearly with black ink and redeposit within sixty (60) days from the "First Date to Use". Do not hand write the retailer stamp number.

Unreadable/Illegible Retailer Stamp
The WIC benefit was not clearly stamped prior to deposit.

Re–stamp the benefit clearly with black ink and send the benefit to the State WIC office for review.

Missing Signature
No participant/authorized proxy signature in the lower right hand corner of the benefit.

This means the WIC participant/authorized proxy did not sign the benefit.

The benefit must be signed at the store during the transaction procedure. After the purchase price has been entered on the check, the cashier is required to verify that the signature on the check matches the signature on the WIC ID Packet. ***Montana WIC will not authorize payment for benefits deposited without a signature.***

Early Cashing

This means that the WIC benefit was used *before* the "First Date To Use".

Montana WIC will not authorize payment for benefits accepted early.

Late Cashing

This means that the WIC benefit was used *after* the "Last Date To Use" or that the benefit was not deposited into the banking system within 60 (sixty) days of the "First Date to Use".

Montana WIC will not authorize payment for benefits accepted or deposited late.

Altered $ Amount

This refers to the amount or price listed in the "Amount of Sale" block.

"Amount of Sale" needs to be clearly and neatly entered. Writing over the price or scribbling out the original amount will be rejected by the bank. Once a benefit is rejected for this error, it must be sent to the State office, with a copy of the transaction, for review.

Purchase Price Missing

This refers to no price being entered in the "Amount of Sale" block.

Montana WIC will not authorize payment for checks missing a purchase price.

Over Max $

If the retailer's prices for WIC products purchased with a WIC food benefit exceed the applicable price limitations established by the WIC Program, the benefit will be rejected.

The maximum dollar value that WIC will pay is based on an average of the reported prices from each authorized retailer within their peer group. Often the benefit is rejected because a cashier has made one of the following errors:

- Double scan
- Reversing WIC benefits – switching infant formula and infant cereal benefits.
- Allowed items in excess of the amounts listed on the WIC benefit ie: extra cereal, cheese, etc.
- Allowed items not listed on the WIC benefit

- Allowed wrong type of infant formula

The WIC Program will reduce payment on WIC benefits submitted in excess of the maximum allowable price for WIC products. In such cases, Montana WIC shall pay no more than the maximum allowable amount. Benefits submitted for review must be accompanied by a copy of the transaction receipt. The benefit will be reviewed, adjusted, approved or voided and returned to the retailer. A copy of the benefit and supporting documents will be sent to the Local WIC Agency for participant education and/or sanction.

Second Presentment
The benefit has been re-deposited without receiving State WIC office approval.

Once a benefit is rejected for anything other than "Missing Stamp", it must be sent to the State office, with a copy of the transaction, for review.
Benefits deposited without a signature, redeemed before the "First Day to Use" or after the "Last Day to Use", or with the purchase price missing will be rejected from the bank and are not eligible for State review and approval.

Send all correspondence relating to rejected benefits to:
Montana WIC
Retail Services
PO Box 202951
Helena MT 59620–2951

Or call 1(800)443–4298 option 2 or (406)444–4746 with questions.

Unauthorized Adjustments Made by Retailers

If the retailer amends, adjusts, corrects, blots out, (using white-out) or makes markings over or conceals any validations or adjustment documentation (written or stamped) made by the State Office on the original WIC benefit or on any electronic copies of the WIC food benefit, sanctions may be assigned to the retailer.

When the retailer has an excessive amount of errors redeeming food benefits, the retailer will receive a Montana WIC Program warning and/or sanction.

Routine Retailer Monitoring

Routine Retailer Monitoring refers to the regular review of authorized retailers to determine adherence to Program policies and procedures and to identify specific areas that are deficient. Interactive training is provided as part of Routine Retailer Monitoring.

Routine Monitoring

A representative of the Montana WIC Program will visit your store. He/she will introduce him/herself to a store representative, and conduct the following review:

- The "We Accept WIC" decal is posted
- The store meets the minimum stocking requirements
- Foods are current
- The store is clean
- Prices reflect those reported on the store's price survey
- WIC shelf tags are properly placed

The monitor will perform an "educational buy" as a training activity and to identify opportunities for improvement. This means the monitor may shop in your store pretending to be a WIC participant and go almost all the way through the transaction before asking the retailer to void the benefit. The monitor may or may not identify themselves as a WIC representative before the educational buy. After the purchase has been made, the WIC representative will review what went right and what went wrong, if anything, during the transaction.

During a monitoring visit the WIC representative must conduct a mandatory interactive training with store personnel. The required topics for this training include:

- Purpose of the WIC Program
- WIC transaction/redemption procedures
- WIC Authorized Food List
- Minimum stocking requirements
- Any special circumstances the retailer is experiencing
- WIC's violations and sanctions
- The use of incentive items
- And resources available to assist the retailer

During a monitoring visit a retailer must provide access to negotiated food benefits (checks) and price records upon request.

Any violation of WIC regulations will be documented on the monitoring form. The form will be discussed with the retailer and he/she will be asked to sign the form. The form will outline steps necessary to correct deficiencies found during the visit. Some deficiencies may result in a warning letter, corrective action plan, mandatory training or disqualification.

Compliance Investigations

Investigations may be utilized to ensure retailers are in compliance with program rules and regulations. The WIC Program monitors retailer activity to assess high-risk retailers and has developed criteria to help identify high-risk retailers. Factors that may identify a probable high-risk retailer are the high risk analysis, retail monitoring and follow-up, alleged complaints, and any other objective means.

- A **compliance purchase** is a covert on-site investigation in which a representative of the WIC Program poses as a participant and transacts one or more food benefits. The purchase is made without the knowledge of the retailer's management or staff. An investigative agent (posing as a WIC participant or proxy) will attempt to obtain evidence the retailer allows WIC Program violations or fraud to be committed at that specific retailer location. The investigative agent may conduct one or more compliance purchases at a selected retailer. Retailers may be selected for cause or at random. After completion of the purchase(s) and leaving the retailers store, a Compliance Buy Report will be filed with the Montana WIC Program.

- An **inventory audit** is the examination of food invoices or other proofs of purchase to determine whether a retailer has purchased sufficient quantities of WIC foods to provide participants the quantities specified on benefits redeemed by the retailer during a given period of time.

Follow–Up Procedures

1. The retailer will be notified, by certified mail, of the investigation, violations found and the subsequent consequences. Failure to respond to this notification may result, in itself, in retailer disqualification If such notification would compromise an investigation of a violation that requires a pattern of violations, notice of a first violation will not be given.

2. The retailer can appeal any sanction or disqualification. Retailers must request a Fair Hearing from the Montana WIC Program. Retailers have thirty (30) days from the effective date of the adverse action to appeal the Montana WIC Program's decision.

3. The Montana WIC Program will notify the Regional USDA Food & Nutrition Office of any WIC retailer disqualifications. If the retailer involved is part of a "chain", the chain's regional/district manager will be notified. The disqualification of a retailer due to a compliance investigation may be publicly advertised if it is determined this will be beneficial to the overall attitude toward the Montana WIC Program.

4. Disqualification from the Montana WIC Program may result in disqualification from SNAP.

5. If you wish to talk to someone from the Montana WIC Program about the compliance purchase, inventory audit or an administrative review, contact the Montana WIC Program at 1-800-433-4298. Retailers are encouraged to resolve disputes without an administrative review.

Refer to your Retailer MOU, State & Federal rules.

Warning Letters

The purpose of warning letters is to call attention to a violation and to give the retailer a chance to properly train or retrain any employees who may be responsible for the errors. If the same errors continue after the retailer has been given a chance to correct the problem, a corrective action plan will be requested and a sanction may be assigned which could result in mandatory retailer training or a disqualification. Contact the State WIC Office if you need any assistance with WIC training or if you need additional training materials.

Corrective Action Plan

A corrective action plan is a strategy or plan for correcting or eliminating a program violation that has occurred. The plan needs to address the area of violation and it may include a training aimed at educating retail staff on WIC Program policy and procedure, customer service, or a plan to address stocking

issues. A timeline in which the issue is addressed will be included in the plan, as well as follow-up to assure requirements are completed.

Retailer Violations & Sanctions

The Montana WIC Program shall determine the type and level of sanctions to be applied against retailers based upon the severity, nature and *pattern* of the WIC Program violations observed, and other factors (for example: whether the offenses represented retailer policy or whether they represent the actions of an individual employee who did not understand the Program rules).

Definitions:

- Retailer violation – Any intentional or unintentional action of a retailer's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the retailer MOU or Federal or State statutes, regulations, policies, or procedures governing the Program.
- Investigation – a method used by the Montana WIC Program to determine if violations are occurring.
- Sanction – an administrative action taken as a result of a violation.
- Pattern – based on the number and severity of the incidences of the violation

The Montana WIC Program does not have to provide the retailer with warning that violations were occurring before conducting compliance investigations or imposing any Montana WIC Program sanction described.

Notification of Investigation

If a Montana WIC Program finds that a retailer has committed a violation that requires a pattern of occurrences in order to impose a sanction, the Montana WIC Program will notify the retailer of the initial violation in writing prior to documentation of another violation, unless the Montana WIC Program determines, in its discretion, on a case-by-case basis, that notifying the retailer would compromise an investigation. The Montana WIC Program will document in the retailer file the reason why the notification would compromise the investigation.

The Montana WIC Program may conduct another compliance buy visit after the notification of violation is received by the retailer, or presumed to be

received by the retailer, consistent with the Montana WIC Program's procedures for providing such notification.

1. A notice may not be given if the investigation is covert, such as a compliance buy investigation, which involves an investigative agent posing as a WIC participant and transacting WIC food benefit. In such circumstances, the notice would reveal the existence of an investigation which had been previously unknown to the retailer. Notification is not required for WIC retailer disqualifications or civil money penalties based on Supplemental Nutrition Assistance Program (SNAP) sanctions. Neither is notification required for violations that only require one incidence before a sanction is imposed. Notification is not required if such notice could compromise covert investigations of the retailer being conducted by the Supplemental Nutrition Assistance Program (SNAP), the USDA Office of the Inspector General, the State Police, or other authorities, as well as the WIC investigation being conducted by the Montana WIC Program; the term "investigation" does not exclusively refer to WIC investigations.

2. Such notice will include violations for a pattern of: overcharging; receiving, transacting and/or redeeming benefits outside of authorized channels, including the use of an unauthorized retailer and/or an unauthorized person; charging for supplemental food not received by the participant; 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 benefits; or providing unauthorized food items in exchange for food benefits, including charging for supplemental foods provided in excess of those listed on the benefit. This notice requirement also applies to any violations for which a pattern of violations must be established in order to impose a Montana WIC Program retailer sanction per Section 246.12.

3. Notification is not required for violations involving a retailer's redemptions exceeding its inventories, since there are no initial violations in such instances; such violations are determined during one audit of inventory, not separate compliance buy visits. Additionally, such notification is not required for WIC retailer disqualification or civil money penalties based on Supplemental Nutrition Assistance Program (SNAP) sanctions. Neither is notification required for violations that require one incident before a sanction is imposed.

4. In making the determination regarding notification of the retailer, there are a number of factors which the State office will review – for example, the severity of the initial violation, the compliance history of the retailer, or whether the retailer has been determined to be high risk consistent with Section 246.12 of the WIC regulations. The Montana WIC Program

has the discretion to determine which factors to consider and how much weight should be assigned to each factor. If the Montana WIC Program decides not to send the notice, the basis for this decision will be documented in the retailer file.

Establishing a pattern of violations.

1) **Mandatory Federal Disqualifications**: Those Mandatory Federal Sanctions that require a pattern are assigned a disqualification for the retailer based on at least two (2) independent documented repeated violations during any compliance investigation.

2) **Montana WIC Program Sanctions**: Montana WIC Program sanctions require documentation of a pattern of the same violation. A pattern of violations can be based on at least two (2) independent documented violations during any compliance investigation, or at least three (3) documented independent violations obtained through objective data or other non-compliance purchase investigations.

When conducting inventory audits, a pattern can be established during a single review of the retailer's redemption records and depends on the magnitude of shortfalls and the period of time over which they occur. A pattern of violations does not need to be present when applying a permanent disqualification as outlined.

When more than one violation is detected during a single investigation, the disqualification period will be based on the most serious violation.

The Montana WIC Program may not accept voluntary withdrawal of a retailer from the WIC Program as an alternative to disqualification.

Any retailer who commits fraud or abuse of the Program is liable to prosecution under applicable Federal, State or local laws. Those who have willfully misapplied, stolen or fraudulently obtained program funds will be subject to a fine of not more than $25,000 (Public Law 105-336) or imprisonment for not more than five (5) years or both, if the value of the funds is $100 or more. If the value is less than $100, the penalties are a fine of not more than $1,000 or imprisonment for not more than one (1) year or both. (7 CFR §246.12 (h) (3) (xx))

Retailer Noncompliance

1. Montana WIC may initiate administrative action to disqualify or assess a fine against a Retailer 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.
2. Mandatory sanctions are federal penalties and shall constitute grounds for disqualification from the WIC Program for a minimum of one (1) year and up to permanent disqualification.
3. State sanctions are penalties that shall constitute grounds for disqualification from the WIC Program, fines, mandated training, and/or the submission of a corrective action plan.
4. 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.

Mandatory Violations and Sanctions

Class A and B violations are 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.

CLASS A VIOLATIONS

These violations require one incidence and are subject to mandatory federal sanctions as defined in 7 CRF 246.12 and shall constitute grounds for disqualification from the WIC Program for a minimum of three (3) years and up to permanent disqualification:

1. A conviction for trafficking (buying or selling WIC food benefits), conviction of selling firearms, ammunition, explosives, or controlled substances in exchange for WIC food benefits – **Length of disqualification – Permanent**
2. One incidence of trafficking (buying or selling WIC food benefits), selling firearms, ammunition, explosives, or controlled substances in exchange for WIC food benefits- **Length of disqualification – Six (6) years**.
3. One occurrence of the sale of alcohol, alcoholic beverages or tobacco

products in exchange for WIC benefits – **Length of disqualification – Three (3) years**.

CLASS B VIOLATIONS
These violations require a pattern of violations be documented before a sanction can be imposed. Unless otherwise noted "pattern" is defined as two or more Class B violations that occur during the period the Retailer is under contract. For a single Class B violation the retailer may be given written notice of the violation. When written notice is given the retailer must establish a corrective action plan that includes the retailer's attendance at a mandatory training to be completed within sixty (60) days of the notice.

At the end of the disqualification period a new application for authorization may be submitted. In all cases the Retailer's new application will be subject to the Montana WIC Program's retailer selection criteria in effect at that time.

1. Charging WIC participants more for WIC approved foods than non-WIC customers or charging more than the posted shelf price (overcharges) - **Length of Disqualification – 3 years.**
2. Claiming reimbursement for the sale of any WIC item that exceeds the store's documented inventory of that food item for a specific period of time - **Length of disqualification – 3 years.**
3. Receiving, transacting, and/or redeeming WIC food benefits outside of authorized channels, including the use of an unauthorized retailer and/or an unauthorized person - **Length of disqualification – 3 years.**
4. Charging the WIC Program for WIC foods not received by the WIC participant - **Length of disqualification – 3 years**.
5. Providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances , in exchange for WIC food benefits - **Length of disqualification – 3 years.**
6. Providing unauthorized food items in exchange for WIC food benefits, including charging for supplemental food provided in excess of items listed on the benefit – **Length of disqualification – 1 year.**

STATE LEVEL VIOLATIONS & SANCTIONS
Class C & D violations are defined by State WIC Rules and are subject to sanctions as defined below:

CLASS C VIOLATIONS
These violations require a pattern of violations be documented before a sanction can be imposed. For a single Class C violation the retailer may be given written notice of the violation. When written notice is given the retailer must establish a corrective action plan that includes the retailer's attendance at a mandatory training to be completed within sixty (60) days of the notice. A pattern of Class C 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 may be submitted. In all cases the Retailer's new application will be subject to the Montana WIC Program's retailer selection criteria in effect at that time.

The WIC Program may impose a Class C violation if a mandatory sanction from the same investigation is not upheld on appeal.

1. Failure to stock any WIC approved items in three or more of the WIC approved food categories.
2. Failure to attend mandatory retailer training.
3. Non-payment of a claim for documented overcharges to the WIC Program.
4. Intentionally providing false information on the retailer price survey or the retailer application.

CLASS D VIOLATIONS
A Class D sanction will not be added to a mandatory sanction within the same investigation. The WIC Program may impose a Class D sanction if a mandatory sanction from the same investigation is not upheld on appeal.

First occurrence – The retailer will receive a written warning letter and a request to train staff if training can address the violation.

Second occurrence – (within one year of first violation) Retailer must establish and conduct a corrective action plan to be completed within sixty (60) days of the notice.

Third occurrence – (within one year of the first violation) Retailer must attend mandatory training or be disqualified for twelve months.

Fourth occurrence - (within one year of first violation) Retailer will be disqualified for twelve months.

Class D violations include:

1. Contacting a WIC customer in an attempt to recover funds for WIC benefits not reimbursed for or for which overcharges were requested.

2. Failure to allow monitoring of the store by WIC staff; failure to provide WIC food benefits or inventory records for review when requested

3. Accepting or requiring a signature before the actual amount of sale is entered on the WIC food benefit.

4. 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.

5. Failure to submit information requested by the State Agency within the time specified, including, but not limited to, food price survey, food stocking information, sales information and corrective action plans.

6. Failure to provide a WIC customer with an itemized receipt for foods purchased with a WIC benefit.

7. Failure to request the WIC Participant Booklet and to verify the participant's signature.

8. Purchasing infant formula from a source not on the "Infant Formula Wholesalers/Distributors/Retailers/Manufacturers" list.

9. Failure to maintain the minimum stock of WIC approved foods. Must also correct the insufficient inventory within 48 hours and provide verification to the State Agency within 72 hours.

10. Giving change in a WIC transaction or requiring cash to be paid in whole or in part to redeem WIC benefits.

11. Discourteous treatment of WIC participants as documented by the Montana WIC Program.

12. Misuse or unauthorized use of the WIC acronym or WIC logo.

13. Failure to maintain competitive prices on WIC approved items.

OTHER DISQUALIFICATIONS

1. Disqualification from SNAP. The Montana WIC Program shall disqualify a retailer that has been disqualified from the SNAP. The WIC disqualification will 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.

2. The Montana WIC Program shall disqualify a retailer who has been assessed a civil money penalty for hardship in SNAP under 7 CFR 278.6. The length of disqualification will correspond to the period for which the retailer would otherwise have been disqualified in SNAP. Such disqualification may not be imposed unless the Montana WIC Program has first determined in its sole discretion that the disqualification would not result in inadequate participant access. If the Montana WIC Program determines that inadequate participant access would result, from the disqualification, then neither a disqualification nor a civil money penalty in lieu of disqualification may be imposed.

Prosecution and Fines

A Retailer committing fraud or abuse of the WIC Program is liable to prosecution under applicable federal, state or local laws.

Warning Letter
Montana WIC must notify a retailer in writing when an investigation reveals an initial violation for which a pattern of violations must be established. unless the Montana WIC Program determines that notifying the retailer would compromise its investigation.

Appeals & Notice
A retailer may appeal a denial of authorization. The retailer may also appeal action taken during the course of a contract where the retailer is disqualified or any other adverse action is taken. The exception is that the retailer cannot appeal the expiration of the contract and the Montana WIC Program's participant access determination for a mandatory or Montana WIC Program violation.

Civil Money Penalty in Lieu of Disqualification
The Montana WIC Program shall consider civil money penalties in lieu of disqualification only as a last resort when there are no other means to provide adequate participant access.

Prior to disqualifying a retailer the Montana WIC Program shall determine, in its sole discretion, and document in the retailer file, whether the disqualification would result in inadequate participant access.

The Montana WIC Program shall presume that there is adequate access for participants if there is at least one other authorized WIC retailer in the same geographic WIC service area as the violating retailer or in the abutting geographic WIC service area.

Calculation of a Civil Money Penalty
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 sanctions dated, multiplied times ten percent (.10) and then multiplied times the number of months for which the retailer would have been disqualified. The civil money penalty cannot exceed $11,000 for each violation and the total penalty cannot exceed $44,000 for each investigation.

Failure to pay Fine/Civil Money Penalty
If a Retailer does not pay or partially pays a fine and/or CMP within the specified time frames, the Montana WIC Program will disqualify the Retailer for the length of the disqualification corresponding to the original violation.

Administrative Review

A retailer may request an administrative review due to receipt of an adverse action. Requests for an administrative hearing must be made within sixty (60) days from the date of the written notice of the adverse action.

At the time an adverse action is invoked, a written notice will be sent to the retailer. The notice will contain the effective date, the procedure to follow to obtain an administrative review (the notice must specify which type of review may be requested) and the timeframe of the request. If the adverse action is related to disqualification, the notice will contain the following statement: "This disqualification from Montana WIC may result in disqualification as a retailer in SNAP (Supplemental Nutrition Assistance Program)."

Adverse actions against a retailer will be postponed until an Administrative

hearing decision is reached, provided the request for hearing was received by the Department within fifteen (15) days from the receipt of the letter of adverse action.

Administrative hearings will be conducted in accordance with the rules contained in 7 CFR 246.18. Refer to Montana WIC State Plan Policy 9.17 for more information on administrative reviews.

A retailer or retailer applicant can request a hearing in writing or verbally by contacting:

Montana WIC Program
Retail Services
1400 Broadway, Cogswell Bldg C305
PO Box 202951
Helena MT 59620-2951

1-800-433-4298 or (406)444-5533

WIC Flag System

Some stores have systems in which all WIC approved foods are "flagged". The computer recognizes flagged items as WIC approved and will reject an item that is not flagged. The cashier/ manager usually can override the rejection and allow the item to scan if necessary.

These systems aid the cashier in making certain only WIC approved foods are purchased. However, many cashiers rely too heavily on this system and errors occur. Some of the most frequent errors include:

- **Failure to verify the unit of measure on the item**. The system will allow an approved food to scan regardless of whether the participant has chosen food in excess of the amount listed on the benefit.

- **Allowing WIC approved items not listed on the benefit**. If a participant includes an item that is not listed on the benefit, it will scan as long as it is a WIC approved food. This is especially prevalent during infant formula transactions. A participant may have picked up the wrong formula but because it is WIC approved, it scans through. Cashiers must compare what is written on the benefit with what is being purchased.

- **Items in the computer have not been flagged correctly**. When an item will not scan because the computer is telling you that it is not WIC approved always refer to your WIC Approved Food List. It may be that the item was not flagged and should have been. You are required to sell approved foods to WIC customers no matter what the computer says and can be penalized for refusing to do so.

Many times retailers have flagged non-WIC foods as approved in their systems in error. Pay attention! The cashier is the most familiar with what is and is not approved. Cashiers can call such errors to the attention of management if they are paying attention.

The bottom line: The flagging system is an *aid* in managing our program effectively, and retailers are responsible for verifying the correct items are being purchased.

On–site Problem Resolution

Problems may occur during a WIC transaction. Often, the problems arise from participant or cashier error. Most of these problems can be resolved by referring to this manual, the WIC benefit, the Montana WIC Approved Food List, or the participant's WIC ID Packet. The retail staff's high level of customer service ensures that each situation is handled with respect.

This section contains examples of problems retail staff may encounter when redeeming WIC benefits.

Incorrect Foods

The most common problem occurs when a participant attempts to purchase items not approved for WIC purchase. What should the cashier do?

- Compare the foods to the items listed on the WIC benefit and to the Montana Approved Food List.
- With the WIC participant, look at the benefit and Approved Food List to determine if the item in question is the correct size, quantity and on the WIC Approved Food List.
- Assist the participant in locating the correct food item if the item in question is not approved.
- Continue transaction if item is on the Approved Food List.

Incorrect Formula Brand or Type

A WIC participant brings an infant formula different than the one listed on the benefit to the cash register. A different infant formula could be a

different brand (i.e. Enfamil instead of Similac) or a different type (i.e. powdered instead of concentrate).

- Ask the WIC participant to review the benefit and let them know that you can only sell them the formula listed on the benefit.
- Assist the participant in locating the correct formula.
- Instruct the participant to return to the Local WIC Agency to discuss a change in the formula if they feel they were issued an incorrect formula benefit.
- Selling an infant formula other than what is listed on the benefit can jeopardize the store's authorization.

Benefits Redeemed Outside of Date Range

WIC Participant attempts to redeem a benefit before the "First Day to Use" or after the "Last Day to Use".

- Examine the valid dates on the WIC benefit before starting the transaction.
- If the WIC participant is trying to use the benefit before the "First Day to Use" or after the "Last Day to Use", calmly return the benefit to the participant and ask them if they have a benefit that they can use which is within the valid date range of use.
- WIC participants can receive three months of benefits at a time and they may have gotten them mixed up.
- Do not proceed with the transaction if they do not have a benefit which is valid for the current date range.

Error in Writing the Amount of Purchase

An incorrect amount is entered in the "Amount of Sale" box on the WIC benefit or the entered price has been written over or adjusted.

- **If the correct amount is *equal to or less* than what was originally written or requires clarification:**
  - ⇒ Use a black pen and draw a single line through the incorrect or adjusted amount
  - ⇒ Write the corrected amount in the correction box
  - ⇒ Have the participant initial the change
  - ⇒ Process the check as usual
- **If the correct amount is *greater* than what was originally written and the benefit has not been sent to the bank:**
  - ⇒ Use a black pen and draw a single line through the incorrect or adjusted amount
  - ⇒ Write the corrected amount in the correction box
  - ⇒ Have the participant initial the change
  - ⇒ The corrected amount may not exceed the maximum value printed on the Fruit & Vegetable Benefit

⇒ The benefit and a copy of the sales transaction (receipt) must be sent to the State office for review before deposit to your bank.

WIC Benefit Has Not Been Signed

The participant leaves the store without signing the WIC benefit.

- Contact the Local WIC Agency, report the name of the participant on the benefit and request that they contact the participant and ask them to return to the store to sign the benefit.
- Document the contact using the "Missing Signature" form (page 52).
- If the participant returns to the store and signs the benefit, deposit it to the bank.
- If the participant does not return to the store to sign the benefit within ten (10) days, send the benefit and contact documentation to the State office for review.
- The State office or Local WIC Agency cannot release any information regarding WIC participant information to the retailer (phone number, address, etc.)
- Attempting to contact a WIC participant in order to correct a rejected check and/or requesting a WIC participant to pay for an error is a serious violation of the Montana WIC Retailer MOU.

Complaints Against Participants

On occasion, a Montana WIC participant may violate WIC Program requirements. If the retailer cannot resolve the conflict by informing the participant of the proper WIC procedures, then the retailer needs to report the incident on a *Participant Complaint Form.* Please complete the form with all relevant information. If possible provide the participant's name and ID number and as many details of the incident as possible as this will aid in the discussion with the participant at the clinic. WIC participants are not permitted to cause a disturbance in your store, abuse your employees or violate the procedures for redeeming benefits.

When to Report a Complaint or Violation

Many retailers do not like reporting WIC participants because they feel they will lose a customer. However, once the retailer allows inappropriate behavior, that behavior will likely continue at other WIC retailers as well. When in doubt about how to report or what to report, the retailer should contact their local agency retail coordinator or the State WIC Agency at 1-800 -433-4298 option 2.

WIC Participant Violations
Any one of the following constitutes a violation of the WIC Program.

If the WIC participant:

- Redeemed a WIC food benefit outside authorized dates or attempted transaction of food benefits with unauthorized retailers.
- Altered the food benefit in any way including intentionally utilizing false signatures, or proxy signatures.
- Attempted to redeem, received or purchased unauthorized foods (foods not listed on the WIC food benefit), or more WIC foods than authorized.
- Verbally or physically abused or threatened physical abuse of clinic or retailer staff.
- Exchanged a food benefit or supplemental foods for cash, credit, non-food items, including supplemental foods in excess of those listed on the participant's food benefit.
- Intentionally making false or misleading statements or intentionally misrepresented, concealed or withheld facts in order to redeem benefits.

Discourteous Treatment

If a WIC participant becomes upset or verbally abusive, the cashier should call for a manager to help diffuse the situation and act as a witness to the situation. The WIC participant and retail staff should remain calm during the discussion. If the WIC participant becomes abusive, they need to be reported to the WIC Program.

WIC participants can also report retail staff for discourteous treatment. Problems with discourteous treatment of a WIC participant can occur in several areas. Some of these include:

- Inappropriate verbal communication regarding the correction of a wrong food item being purchased or food benefit redemption;
- Using inappropriate or foul language in front of the WIC participant;
- Belittling or intimidating the WIC participant.

In accordance with the Montana WIC Retailer MOU, the retailer must treat the

WIC customer with the same respect and offer WIC participants the same courtesies offered to other (non-WIC) customers. If the WIC participant has made a mistake, be polite in your explanation of the correct food item or policy. Contact the store manager, if that is your store policy, and allow management to handle the problem.

Confidentiality

Montana WIC, either the State WIC Agency or Local WIC Clinic CANNOT give out WIC participant status or identity to a retailer. The retailer is only allowed to see the WIC ID Packet upon presentation of WIC food benefit for redemption. Any further requirements by the retailer during redemption are a breech of confidentiality and may be either discourteous treatment or a civil rights violation of the WIC participant.

The retailer CANNOT contact the WIC participant either to correct a food benefit problem or require payment from the WIC participant because a WIC food benefit has been rejected and not paid.

Civil Rights

In accordance with Federal Law and U.S. Department of Agriculture policy, WIC is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Adjudication and Compliance, 1400 Independence Ave, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice & TDD). USDA is an equal opportunity provider.

Discrimination of a WIC participant can take several forms other than the standard definition above, some examples include:

- Requiring the WIC participants to go to one check stand, when other check stands will accept personal checks.
- Telling a WIC participant, "I wish I could get free food for not working like you"
- Posting a returned WIC food benefit in public or with a "bad check list"
- Referring to WIC participants as "welfare" people

- Announcing over a loud speaker system that a WIC benefit needs clearance
- Making any unwanted or unwelcome advances to a WIC participant

Discrimination of a WIC participant is a serious violation of the WIC Montana Retailer MOU and may result in a sanction or disqualification. Authorized WIC retailers must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Department of Agriculture regulations on nondiscrimination contained in Parts 15, 15a and 15b and FNS instructions as outlined in Part 249.7 of Title 7 Code of Federal Regulations, as of May 26, 2005.

All Civil Rights complaints are handled by the U.S. Department of Agriculture, not the Montana State WIC Agency. If the retailer is found in violation of Federal Civil Rights discrimination, the retailer will be disqualified.

Promotions & Incentives

Promotions/Incentives

The retailer cannot provide promotions and/or incentives to WIC participants that are not provided to all customers.

Store Sales/Specials/Coupons

It is the policy of the Montana WIC Program that WIC participants be able to take advantage of store sales, special promotions (such as store “club cards”) and coupons when using their WIC benefits. This also includes, but is not limited to “Buy One, Get One Free” and "ounces free” points for use on a store card, or similar promotions.

The “free” item, ounce, etc., does not have to be WIC approved and does not count against the quantity of items listed on the benefit, but are given to the participant in addition to the items listed on the WIC benefit.

The cashier will ensure the prices charged include any store sale or other promotion, or the value of the coupon is deducted from the transaction total.

Use of the WIC Acronym and Logo

Use of the WIC Acronym and Logo

1) WIC authorized retailers are not permitted to use the WIC acronym and logo, or close facsimiles, in the name of the retailer.

2) WIC authorized retailers are only allowed to use the WIC acronym and logo or close facsimiles, signage in the size as provided by the Montana WIC Program. The WIC authorized retailer cannot produce their own signage.

3) WIC authorized retailers cannot use the WIC acronym or logo or close facsimiles in any store advertising, incentives, and other promotional material.

4) Use of the WIC acronym or logo or close facsimiles prior to authorization in the name of the retailer, for advertising, promotional material, or incentives will cause a non-authorization status for the next ninety (90) days from the notification of the inappropriate usage. §246.12(g)

5) The WIC authorized retailer cannot use or apply any stickers, tags, or labels that have the WIC acronym or logo on WIC-approved products. The Montana WIC Program will restrict the use of channel strips or shelf -talkers with WIC acronym or logo to only those provided or approved in writing by the Montana WIC Program.

6) The Montana WIC Program has established Montana WIC Program violation and sanctions for service mark violations pursuant to §246.12 (l)(2). See the Montana WIC Program Violation and Sanctions section.

7) WIC Retailer compliance with the policies regarding the use of the WIC acronym and logo will be evaluated at the initial on-site authorization visit, any other on-site visit regardless of the reason, during educational or compliance purchase visits, and by any other objective means.

The United States Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, age, and disability. Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint, write the USDA, Director, Office of Adjudication and Compliance, 1400 Independence Ave, SW, Washington, D.C. 20250-9410. USDA is an equal opportunity employer.

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Montana WIC Program Shelf Price Survey		
Issue Date:		
Due Date:		
Retailer Name:		
WIC ID/stamp #:		
WIC Contact:		
Please provide your store's **most expensive regular prices** (not sale or temporary price reduction) for all available ***WIC-authorized*** food items listed the survey. Use the Food List as a guide. **Foods with a "check mark" are mandatory stocking requirements – you must have a price for these items.**		
Milk - Provide the *most expensive* price for all approved milk items stocked.		
Size/Type	List which Store Brand or Name Brand	Regular Price
Gallon, whole ✓		
Half gallon, whole ✓		
Quart, whole		
Half gallon, Lactose-free		
Quart, Lactose-free		
12 oz can	Meyenberg Goat Milk – evaporated	
32 oz (1 qt) fluid	Meyenberg Goat Milk – lowfat or whole (circle)	
12 oz can	Evaporated Milk	
25.6 oz (8 qt) box	Nonfat Dry Milk	
9.6 oz (3 qt) box	Nonfat Dry Milk	
Yogurt – Provide the *most expensive* price of authorized brands ***Plain or Vanilla flavors only***		
32 oz (1 qt)	Store Brand, Dannon, Mountain High, Yoplait (circle)	
Soy Beverage		
UPC/Size/Unit	Brand and Type	Regular Price
52603082259 1 quart	Pacific Natural Foods Ultra Soy - Shelf-stable, vanilla	
52603082006 1 quart	Pacific Natural Foods Ultra Soy - Shelf-stable, plain	
53859070663 1/2 gallon	8th Continent Soymilk- Refrigerated, original only	
25293600393 1/2 gallon	Silk Soymilk – Refrigerated, original only	
✓ **Cheese - Provide the *most expensive* WIC cheese price for all approved sizes & types.**		
Size/Unit	List Name Brand (no organic or imports) and Type (e.g., cheddar)	Regular Price
16 oz (1lb) block		
8 oz block		

Eggs - Provide your store's *most expensive* large, white egg price.		
Size/Type	Any Brand (no brown, specialty (Eggland's Best), cage-free, or organic)	Regular Price
1 dozen, large, white ✓		
✓ **Breakfast Cereal - Provide prices for items stocked.**		
Size/Unit (indicate size if different)	Brand and Type (no organic)	Regular Price
9 oz box	Multi-Grain Cheerios (General Mills)	
12 oz box	Cheerios (General Mills)	
12 oz box	Corn Flakes (Kellogg's)	
12 oz box	Rice Krispies (Kellogg's)	
12 ox box	Kix (General Mills)	
28 oz box	Cream of Wheat - Regular or Whole Grain (Nabisco)	
✓ **100 % Whole Grain Bread**		
UPC/Size/Unit	Brand	Regular Price
72220001174 16 oz loaf	Franz 40 Calorie Per Slice Whole Wheat Bread	
7222000118 16 oz loaf	Franz 100% Whole Wheat Bread	
02573700616 16 oz loaf	Wheat Montana 100% Whole Wheat Bread	
21130182305 16 oz loaf	Safeway Kitchens 100% Whole Wheat Bread	
16 oz loaf	Smith's 100% Whole Wheat Bread	
7294561103 16 oz loaf	Sara Lee Classic 100% Whole Wheat Bread	
Tortillas		
UPC/Size/Unit	Brand	Regular Price
7934101386 16.oz bag	Don Pancho soft white corn tortillas	
7934102628 16 oz bag	Don Pancho soft whole wheat tortillas	
4856406005 16 oz bag	Guerrero soft white corn tortillas	
4856407107 16 oz bag	Guerrero soft whole wheat tortillas	
73731003282 16 oz bag	Mission soft yellow corn tortillas	
73731071076 16 oz bag	Mission soft whole wheat tortillas	
✓ **Brown Rice - Provide the *most expensive* price for both brown rice types.**		
Size/Unit	Any Brand (no organic)	Regular Price
16 oz bag	Brown Rice - long or short grain	
16-14 oz box	Instant Brown Rice	
100 % Whole Wheat Pasta – Provide *most expensive* price		
Size/Unit	Any brand 16 oz packages only (no organic)	Regular Price

✓ **Frozen 100% Juice - Provide the *most expensive* price for WIC juice brands.**		
Size/Unit/Flavor	Brand	Regular Price
12-11.5 oz can, orange	Minute Maid, Old Orchard or Store Brand (circle)	
12-11.5 oz can, grape	Old Orchard, Welch's or Store Brand (circle)	
16 oz can, orange	Minute Maid, Our Family or Store Brand (circle)	
Plastic Bottles 100% Juice - Provide the *most expensive* price for WIC juice brands.		
Size/Unit/Flavor	Brand	Regular Price
64 oz plastic bottle	Old Orchard, Welch's or Store Brand (circle) ✓	
Peanut Butter - Provide the most expensive price of WIC peanut butter.		
Size/Unit	Circle Name Brand (no organic)	Regular Price
18-16 oz jar	Adams, Jif, Peter Pan, Skippy ✓	
Beans, Peas & Lentils - Provide *most expensive* price.		
Size/Unit	Any Brand	Regular Price
16 oz bag	Dry beans, peas or lentils ✓	
16-15 oz can	Canned Beans ✓	
Canned Fish - Provide *most expensive* price.		
Size/Unit	Any Brand (in water)	Regular Price
6-5 oz can	Tuna ✓	
6-5 oz can or 14.75 oz can (Circle)	Pink Salmon ✓	
Infant Cereal		
Size/Unit	Circle brand (no organic, fruit or DHA added)	Regular Price
8 oz box	Infant Cereal (Beech-nut or Gerber) ✓	
16 oz box	Infant Cereal (Gerber)	
Baby Food Fruits & Vegetables		
Size/Unit	Circle Brand (no organic, desserts, or dinners)	Regular Price
4 oz jar	Beech-nut or Gerber ✓	
Baby Food Meat		
Size/Unit	Circle Brand (no organic or dinners)	Regular Price
2.5 oz jar	Beech-nut or Gerber ✓	
Infant Formula - Please provide prices for all formulas available.		
UPC/Size/Unit	Formula Description	Regular Price
7007455958 12.4 oz can	**Similac Advance Powder** ✓	
7007456974 13.0 oz can	Similac Advance Concentrated Liquid	
7007453364 32 oz bottle	Similac Advance Ready-To-Feed	
7007457541 12.6 oz can	**Similac Sensitive Powder** ✓	
7007457534 32 oz bottle	Similac Sensitive Ready-To-Feed	

300871214415 12.9 oz can	**Enfamil Prosobee Powder** ✓	
300871195417 13 oz can	Enfamil Prosobee Concentrated Liquid	
300870309747 32 oz can	Enfamil Prosobee Ready-To-Feed	
7007450960 12.3 oz can	Similac for Spit Up Powder	
7007456731 32 oz bottle	Similac for Spit Up Ready-To-Feed	
7007462600 12 oz can	Similac Total Comfort Powder	
7007457664 16 oz can	Similac Alimentum Powder	
7007457513 32 oz bottle	Similac Alimentum Ready-To-Feed	
30087123941 12.6 oz can	Enfamil Nutramigen Enflora LGG Powder	
30087049801 13 oz can	Enfamil Nutramigen Concentrated Liquid	
30087049901 32 oz bottle	Enfamil Nutramigen Ready-To-Feed	
30087036701 16 oz can	Enfamil Pregestimil Powder	
30087001944 12.8 oz can	Enfamil Enfacare Powder	
300871287419 32 oz bottle	Enfamil Enfacare Ready-To-Feed	
70074573431 13.1 oz can	Similac NeoSure Powder	
70074574561 32 oz bottle	Similac NeoSure Ready-To-Feed	
8 oz Single, 4-pack, 6-pack 7007458050	Pediasure (circle size)	
8 oz Single, 4-pack, 6-pack 7007458062	Pediasure with Fiber (circle size)	
8 oz Single, 6-pack, 24 pack	Ensure	
8 oz Single, 6-pack, 12 pack	Boost Original	
State office use - entered by & date:	**Signature of retail staff person completing survey**	

UPCs are provided for easier product identification. Product changes could result in UPCs not listed on this form.

Keep a copy for your records and mail or fax all 4 pages of the completed shelf price surveys to:

Montana WIC Program
Attn: Retail Services
PO Box 202951
Helena, MT 59602-2951
Fax: 406-444-0239 Call WIC Retail Services at (406) 444-4746 with questions.

MINIMUM WIC FOOD STOCKING REQUIREMENTS
For Montana Authorized Retailers in Peer Group 1 & 2

Retailers must have the following items in stock at all times in sufficient quantities to meet WIC participant demand. Quantities are based on the amounts needed to fill a benefit for one pregnant woman, one infant and one child. **Refer to the Approved Food List for authorized brands/types.**

Food Item	Minimum Requirements
Milk Reduced fat (skim or 1% - choose one) and Whole	3 gallons of each and 3 half-gallons of each
Cheese 16 or 8 oz packages	3 – 16 oz packages of two flavor varieties or 6 – 8 oz packages of two flavor varieties
Eggs dozens only	3 dozen
Breakfast Cereal 12-oz packages or larger cold cereal and 12 – 11 oz packages hot cereal	2 boxes of three varieties cold and 2 boxes of one variety hot (one of the cold or hot varieties must be whole grain)
Whole Grain Items 16 oz loaves whole wheat bread and 16 – 14 oz packages brown rice	3 loaves of bread and 3 packages of regular or quick/minute brown rice
Juices 12 - 11.5 oz frozen and 64 oz plastic bottles	3 cans of two different flavors – frozen and 3 bottles of two different flavors - bottled
Peanut Butter 18 - 16 oz jars	3 jars
Legumes (mature beans) 16 - 15 bags dry and 16 - 15 oz canned legumes	3 packages of two varieties – dry and 10 cans of two varieties - canned
Canned Fish 6 - 5 oz cans	6 cans of light tuna and/or pink salmon
Infant Cereal 8-oz boxes	2 boxes of two different grain varieties
Infant Foods Fruits, 4 oz jars or 2-pks, Stage 2 only and Vegetables, 4 oz jars or 2-pks, Stage 2 only and Meats, 2.5 oz jars	20 jars of fruits and vegetables including two flavors of fruits and two flavors of vegetables and 10 jars of baby food meat
Infant Formula Powdered format required in size specified Similac Advance – 12.4 oz. and Enfamil Prosobee – 12.9 oz	6 cans of each variety
Fresh Fruits and Vegetables	2 different varieties of fresh fruits and 2 different varieties of fresh vegetables

MINIMUM WIC FOOD STOCKING REQUIREMENTS

For Montana Authorized Retailers in Peer Group 3 and Supercenters

Retailers must have the following items in stock at all times in sufficient quantities to meet WIC participant demand. Quantities are based on the amounts needed to fill a benefit for one pregnant woman, one infant and one child.

Refer to the Approved Food List for authorized brands/types.

Food Item	Minimum Requirements
Milk Reduced fat (skim or 1% - choose one) and Whole	3 gallons of each and 3 half-gallons of each
Cheese 16 or 8 oz packages	3 – 16 oz packages of two flavor varieties or 6 – 8 oz packages of two flavor varieties
Eggs dozens only	3 dozen
Breakfast Cereal 12-oz packages or larger cold cereal and 12 – 11 oz packages hot cereal	2 boxes of three varieties cold and 2 boxes of one variety hot (one of the cold or hot varieties must be whole grain)
Whole Grain Items 16 oz loaves whole wheat bread and 16 – 14 oz packages brown rice	3 loaves of bread and 3 packages of regular or quick/minute brown rice
Juices 12 - 11.5 oz frozen and 64 oz plastic bottles	3 cans of two different flavors – frozen and 3 bottles of two different flavors - bottled
Peanut Butter 18 - 16 oz jars	3 jars
Legumes (mature beans) 16 - 15 oz bags dry and 16 – 15 oz canned legumes	3 packages of two varieties – dry and 10 cans of two varieties - canned
Canned Fish 6 - 5 oz cans	6 cans of light tuna and 6 cans of pink salmon
Infant Cereal 8-oz boxes	2 boxes of two different grain varieties
Infant Foods Fruits, 4 oz jars or 2-pks, Stage 2 only and Vegetables, 4 oz jars or 2-pks, Stage 2 only and Meats, 2.5 oz jars	20 jars of fruits and vegetables including two flavors of fruits and two flavors of vegetables and 10 jars of baby food meats including two flavors
Infant Formula Powdered format required in size specified Similac Advance – 12.4 oz. and Enfamil Prosobee – 12.9 oz	6 cans of each variety
Fresh Fruits and Vegetables	2 different varieties of fresh fruits and 2 different varieties of fresh vegetables

Process Form: Missing Signature Benefits Retailer Number: _____

Use this form to document contact with the local WIC clinic. If the participant does not respond within 10 days, send this form and the benefit to the State WIC office to be reviewed for approval.

Benefit Number	Contact Person At Local WIC Clinic	Date of Contact with Local Clinic	Date Sent to State Office

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Process Form: Missing Signature Benefit Retailer Number: _____

Use this form to document contact with the local WIC clinic. If the participant does not respond within 10 days, send this form and the benefit to the State WIC office to be reviewed for approval.

Benefit Number	Contact Person At Local WIC Clinic	Date of Contact with Local Clinic	Date Sent to State Office

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Process Form: Missing Signature Benefit Retailer Number: _____

Use this form to document contact with the local WIC clinic. If the participant does not respond within 10 days, send this form and the benefit to the State WIC office to be reviewed for approval.

Benefit Number	Contact Person At Local WIC Clinic	Date of Contact with Local Clinic	Date Sent to State Office

MEMORANDUM OF UNDERSTANDING
FROM THE STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Public Health & Safety Division

(WIC Retailer X - XXXX)

SECTION 1: PARTIES

This Memorandum of Understanding (MOU) is entered into between the Montana Department of Public Health and Human Services (hereinafter referred to as the "Department"), whose address and phone number are 1400 Broadway, P O Box 202951, Helena MT 59620-2951 and 406-444-4747 and X (hereinafter referred to as the "Contractor"), whose federal ID number, mailing address, and phone number are X, X, X, and X.

SECTION 2: PURPOSE

The purpose of this MOU is to provide specific supplemental foods and prescription formulas to participants deemed eligible to receive food benefits under the Montana Supplemental Nutrition Program for Women, Infants and Children (WIC).

SECTION 3: TERM

A. The term of this MOU for the purpose of delivery of services is from October 1, X, through September 30, X, unless terminated otherwise in accordance with the provisions of this MOU. This MOU is a one-time MOU and therefore may not be extended for any period beyond that specified above.

B. At least sixty (60) days prior to the expiration of this MOU, the Department will send to the Contractor a "Montana WIC Retailer Application" packet for reapplication to enter into a subsequent MOU. A completed application packet must be returned to the Department within thirty (30) days after the Contractor receives it if the Department is to reconsider whether the Contractor will be authorized to accept WIC benefits or WIC cash value benefits (hereinafter referred to as "WIC benefits") under a subsequent MOU. [Note: A subsequent MOU must be signed by both the Department and the Contractor before the Contractor may accept WIC benefits after the expiration date of this MOU, nor is the Department under any obligation to reauthorize the Contractor for a subsequent MOU after the expiration of this one.]

C. Neither the Contractor nor the Department has an obligation to renew the MOU. In the event of non-renewal, the Contractor is not entitled to a hearing or an appeal to contest the non-renewal. Renewal will be granted according to selection criteria.

D. The Contractor understands and agrees that the Department, as a state agency, is dependent upon federal and state appropriations for its funding, and that actions by Congress, the U.S. Department of Agriculture, or the Montana Legislature may preclude continuing to issue and pay for WIC benefits through the completion deadline stated in Section 3 (A). Should such a contingency occur, the parties agree that the Department may set a new completion deadline, depending upon the funding remaining available for the WIC Program, and that the Contractor will be compensated for WIC benefits received by the Contractor through 5:00 p.m. of the revised termination date and presented to the Contractor's bank for payment.

SECTION 4: SERVICES TO BE PROVIDED

A. The Contractor shall do the following during the period stated in Section 3 (A):
   (1) Supply all WIC foods and prescription formulas authorized on the WIC benefits to WIC participants, parents or caretakers of infant and child participants, or proxies authorized by them (hereinafter referred to as "participants"), at the current price at the time of purchase or at less than the current price charged to other customers, but in no case at prices that exceed the maximums for the foods and prescription formulas in question set by the Department for the peer group in which the Contractor is assigned.
   (2) Accept WIC benefits from WIC participants and submit those WIC benefits to the Contractor's financial institution for payment for the provision of WIC supplemental foods and prescription formulas in the manner and form specified in the Montana WIC Program Retailer Reference Manual (hereinafter referred to as the WIC Retailer Manual).
   (3) Comply with the provisions of 7 CFR Section 246.12 (the Federal regulations governing WIC food delivery systems) and the WIC Retailer Manual, and continue to meet the selection criteria in the WIC Retailer Manual throughout the term of this MOU.

(4) Ensure that WIC participants are offered the same courtesies and services as offered to other customers. The Contractor agrees to comply with the WIC Retailer Manual concerning coupons, store cards and store promotions.

(5) Make available to WIC participants the type and brands of WIC foods and prescription formulas specified on the WIC Approved Food List (as it appears in Attachment A or as it is amended, after the Contractor receives written notice from the Department of the changes).

(6) Maintain at all times the quantities of approved WIC foods listed in Attachment B.

(7) Sell to WIC participants only those authorized supplemental foods and prescription formulas listed on the WIC benefits and in the quantities specified on the WIC benefits unless the foregoing individuals choose to purchase less or the participants are able to purchase more at no cost to the WIC Program if there are special manufacturer or store promotions such as "free ounces of product" or "Buy One-Get One Free" or coupons or store cards.

(8) Refrain from doing the following:

(a) Providing unauthorized food items, non-food items, cash, or credit in exchange for WIC benefits.

(b) Providing refunds, or permit exchanges for authorized supplemental foods obtained with WIC benefits, except for exchanges of an identical authorized supplemental food item when the original authorized supplemental food item is defective, spoiled, or exceeded its "sell by," "best if used by," or other date limiting the sale or use of the food item at the time of purchase. An identical authorized supplemental food item means the exact brand and size as the original authorized supplemental food item obtained and returned by the participant.

(c) Giving change to a WIC participant transacting a WIC purchase;

(d) Accepting WIC benefits for credit on past accounts;

(e) Giving rain checks or credit slips for out-of-stock items purchased with WIC benefits;

(f) Collecting sales tax on authorized supplemental foods and prescription formulas obtained with WIC benefits, should such a tax be instituted in Montana; or

(g) Using the WIC symbol or the WIC acronym without the written approval of the Department. This includes the use of the service mark for infant formula marketing, retailer name or advertising, or brand identification on shelf talkers and/or channel strips.

(9) Comply with the following procedures regarding proper WIC benefit transactions:

(a) Refuse to alter WIC benefits or to accept any WIC benefits showing alterations.

(b) Refuse to accept WIC benefits before the "FIRST DAY TO USE" or after the "LAST DAY TO USE" shown at the right hand side of the WIC benefit. Enter the current date in the “ACTUAL DATE OF SALE” block.

(c) Enter the amount of purchase in the "AMOUNT OF SALE" block on the WIC benefit after verifying all items have been included in the purchase total; corrections to the "AMOUNT OF SALE" block must be completed in the manner prescribed by the Department in the WIC Retailer Manual or the WIC benefit will be rejected by the Department’s bank.

(d) Refuse to accept a WIC benefit from anyone other than the designated participant or authorized representative or proxy listed on the ID page of the WIC Participant Booklet.

(e) Require the WIC participant to sign the WIC benefit in the presence of the cashier after the products are totaled and the "AMOUNT OF SALE" block is filled in by the cashier. The signature of the WIC participant must be verified against the signature on the ID page of the WIC Participant Booklet. The Contractor may refuse to redeem a WIC benefit if the WIC Participant Booklet is not presented at the check-out.

(f) Ensure that each WIC benefit is submitted for payment to, and accepted by the Contractor's bank within thirty (30) days after the "LAST DAY TO USE" date on the WIC benefit. A WIC benefit presented for the first time for payment more than thirty (30) days after its "LAST DAY TO USE" date will be rejected for payment by the Department's bank.

(g) Ensure that cash is not exchanged during a WIC benefit transaction, and that no restitution is sought from WIC participants for WIC benefits not paid or partially paid by the Department.

(h) Use the authorized WIC retailer stamp to imprint, only in black ink, the four (4) digit number assigned by the WIC Program to the Contractor on the face of the WIC benefit in the space indicated prior to deposit in the bank. All retailer stamps issued and/or approved by the WIC Program remain the property of WIC. The Contractor, upon termination of authorization for participating in WIC, must return its retailer stamp to the WIC office.

(i) In cases where overcharges or improper redemptions have occurred, the Contractor will be asked to refund the amount of the full purchase price of each WIC benefit containing the error to the WIC Program unless the Contractor can prove there was no overcharge or improper redemption. The Department may delay future payment to the Contractor until such proof is given. The Department's decision concerning whether an overcharge or improper redemption has occurred is not subject to appeal. If a claim is established, the Department may offset the claim against current and subsequent amounts to be paid to the Contractor.

(10) Give the State of Montana, the Department, the Montana Legislative Auditor, the U.S. Department of Agriculture, and the Comptroller General of the United States, or any of their duly authorized representatives the right of access to any books, documents, papers, and records of the Contractor which are pertinent to the services provided under this MOU, for purposes of making an audit, excerpts, or transcripts.

(11) Allow federal, state, and local WIC representatives to visit the Contractor's store to observe WIC benefit redemption procedures and to conduct unannounced on-site monitoring visits to determine compliance with WIC Program regulations, policies, and procedures. Failure to allow monitoring of the store shall result in the Contractor's disqualification from the WIC Program.

(12) During visits by the Department's WIC Program representatives, provide the Department with access to WIC benefits negotiated the day of the representative's visit, purchase invoices, and available shelf price information on WIC items at the request of the Department; failure to supply the requested records will result in the Contractor's disqualification from the WIC Program.

(13) Upon request by the Department, provide the Department with purchase invoices and shelf price information for any period within the three years prior to the date of the request; failure to supply requested records shall result in the Contractor's disqualification from the WIC Program.

(14) Complete and return to the Department the WIC Price Survey supplied by the Department within fifteen (15) days after receiving it.

(15) Notify the Montana WIC Program immediately whenever a sudden increase in price may occur as it will affect the maximum value on the WIC benefit.

(16) Accept accountability for the actions of owners, managers, agents and employees in the handling of WIC benefits and the selling of authorized foods, and responsibility for any actions of the Contractor's owners, managers, agents and employees which are contrary to this MOU.

(17) Assign the Contractor's store manager or other authorized representative to receive annual training on WIC procedures, and, after receiving training, to, in turn, inform and train retailer staff on all WIC Program requirements. Failure to attend mandatory training will result in possible disqualification from the WIC Program.

(18) Notify the Department in the event that the Contractor ceases to operate, whether it be by sale or closure;

(19) Comply with all portions of this MOU.

B. The Department shall:

(1) Notify the Contractor of any changes or amendments to the WIC Approved Food List during the MOU period.

(2) Deny payment to the Contractor for incorrect redemption of WIC benefits or demand a refund for improper payment already made. The Department may make price adjustments to the purchase price on WIC benefits submitted for approval to ensure compliance with applicable price limitations.

(3) Set up a system whereby the Contractor will be reimbursed through its bank of choice for the actual amount of sale noted on each WIC benefit the Contractor receives from a WIC participant, so long as the foregoing conditions cited in Section 4 (A) are met.

(4) Annually, in the region where the Contractor is located, offer the Contractor training to educate and update the Contractor on WIC matters, prevent WIC Program errors, and improve WIC Program service. The Department will have sole discretion to designate the date, time, and location of all interactive training. Contractors will be offered at least one alternative date on which to attend such training. At the Department's discretion, the quarterly Montana WIC Retailer Newsletter may be substituted for an annual interactive training.

(5) Provide the Contractor with pertinent WIC Program information and guidance concerning authorized WIC foods, policies, procedures, and potential for on-site training.

(6) Provide the Contractor with appropriate training materials to educate their staff in WIC procedures.

(7) Monitor the Contractor to ensure compliance with program requirements. Monitoring may be in the form of educational visits, monitoring visits, compliance buys or inventory audits.

SECTION 5: TERMINATION FOR CAUSE; RIGHT OF CONTRACTOR TO REQUEST REVIEW

A. In addition to the provisions of Section 3 and Section 7(A), either party may terminate this MOU for cause, after giving thirty (30) days written notice to the other party. If the Department is terminating the MOU, the notice will contain the reasons for the termination and the Contractor's right to an appeal, unless the federal regulations or this MOU state otherwise.

B. The Department may immediately terminate the MOU if it determines that the Contractor has provided false information in connection with its application for authorization, or if there is a conflict of interest between the Contractor and the Department or the local WIC agency.

C. The Department may terminate this MOU for reason of Program abuse, fraud, and/or failure of the Contractor to perform any of the duties or conditions contained in this MOU after giving the Contractor fifteen (15) days written notice in advance, unless the reason for termination is a Class A, type #1, violation as set out in Section 6 (G)(4). The Department may

also impose sanctions for such violation, including a fine or a civil money penalty (CMP) if it is in the interest of the WIC Program or its participants.

D. In the event that the Contractor ceases to operate, regardless if by sale or closure, this MOU will terminate on the same date. In the event that Contractor changes the physical location of Contractor's retail operations, at the discretion of the Department, this MOU may terminate on the same date.

E. Any termination of this MOU is subject to the exception that paragraph B of Section 7, relating to retention of and access to records, will remain in effect.

F. The Contractor's authorization to participate in the WIC Program, as well as this MOU, may be terminated by the Department if:
   (1) the Contractor is authorized to participate in the USDA Supplemental Nutrition Assistance Program (SNAP) and:
      (a) the Contractor is disqualified from SNAP; or
      (b) the Contractor is assessed a CMP under that program, so long as the Department documents that any such disqualification will not create undue hardship for WIC participants.
   (2) pursuant to a review under ARM 37.59.303, disqualification is justified and the procedure set out in that rule concerning notice of the reasons for the adverse action and an opportunity for appeal is followed. Disqualification will result in the termination of the Contractor's MOU for participating in the Montana WIC Program.

G. The Contractor has a right to contest the Department's findings pertaining to termination of authorization to participate in the WIC Program or other adverse action which affects participation during the MOU or authorization period. Such a request for a hearing by the Contractor must be made within fifteen (15) calendar days after receipt of a notice of the reasons for the adverse action. The Department's administrative review procedures are available from the Department upon request. **THE EXPIRATION OF THIS MOU ON THE DATE CITED IN SECTION 3 IS NOT SUBJECT TO APPEAL.**

H. The Department is not responsible for losses incurred by the Contractor as a result of disqualification from participation in the WIC Program, or termination of this MOU.

I. Any and all communications between the parties concerning reauthorization or non-reauthorization of an MOU must be in writing, directed to the liaisons for the Department and the Contractor that are listed in Section 18 of this MOU.

SECTION 6: SANCTIONS FOR PROGRAM VIOLATIONS

A. The commission of fraud against or abuse of the WIC Program by the Contractor is subject to prosecution under applicable federal, state, or local laws. A Contractor that has willfully misapplied, stolen, or fraudulently obtained WIC Program funds is subject to a fine of not more than $25,000, imprisonment for not more than five years, or both, if the value of the funds is $100 or more. If the value is less than $100, the penalties are a fine of not more than $1,000, imprisonment of not more than one year, or both. [7 CFR 246.12(h)(3)(xx)].

B. Mandatory sanctions under this MOU are as follows and are required by the federal WIC regulations [7 CFR 246.12(l)(1)]. Disqualification from the WIC Program may potentially result in disqualification from participation in SNAP [7 CFR 246.12(l)(1)(vii) and 7 CFR 278.6(e)(8)]. Such disqualification is not subject to administrative or judicial review under SNAP.

C. The Department may sanction the Contractor for reasons of Program abuse. The Department will give the Contractor fifteen (15) days from the date the Contractor receives notice before imposing a sanction, with the exception of the permanent disqualification required for a Class A, type #1, violation. Unless this MOU or the federal WIC regulations state otherwise, the Contractor has a right to appeal the Department's decision to sanction the Contractor. Neither expiration of this MOU nor disqualification of the Contractor as a result of a SNAP sanction is subject to administrative or judicial review [7 CFR 246.12(l)(1)(vii)].

D. The Contractor will be disqualified by the Department from participation in the WIC Program if the Contractor is currently disqualified from participation in SNAP or has had a SNAP CMP imposed in lieu of disqualification because of the hardship to SNAP participants the SNAP disqualification would cause. If the Department determines that WIC Program disqualification of the Contractor on the foregoing grounds would result in inadequate access to WIC foods by WIC participants, or would otherwise create an emergency situation for the participants, the Department may, instead of disqualification, assess a WIC CMP. A CMP will not be issued as a sanction for a third or subsequent violation. Any CMP assessed will be based upon the formula provided in 7 CFR 246.12(l)(1)(x). The CMP may not exceed $11,000 for a single violation or a total of $44,000 for a single investigation. If a Contractor is disqualified from the WIC Program because of a SNAP CMP assessment, the period of WIC disqualification will correspond to the period for which the Contractor would have

been disqualified from SNAP had a CMP not been imposed instead. WIC disqualification on the foregoing grounds is not subject to administrative or judicial review. If a SNAP CMP has been imposed on the Contractor in lieu of a SNAP disqualification because of the hardship to SNAP participants a SNAP disqualification would cause, the Department may not impose a WIC Program CMP in lieu of disqualification. If the Contractor fails to pay a CMP, or fails to pay the CMP in accordance with time frames mutually agreed upon by the parties to this MOU, the Contractor will be disqualified for the time period that originally could have been imposed for the violation.

E. A violation of WIC Program rules by the Contractor is either a Class A, B, C or D violation, each class being subject to the sanctions outlined in the most current version of the Montana WIC Program State Plan, available at http: http://dphhs.mt.gov/Portals/85/publichealth/documents/WIC/LocalAgencies/StatePlan2015/WICStatePlan2015Updated.pdf. All sanction notifications will be sent via certified mail. Sanctions will be implemented immediately unless an Administrative Review is requested by the Contractor within 15 days of receipt of the notice of sanctions.

F. Federal sanctions as defined in 7 CFR 246.12 are mandatory for Class A and B violations and constitute grounds for disqualification from the WIC Program for a minimum of one (1) year up to permanent disqualification. The fact that disqualification has occurred will be entered and remain in the record of the Contractor indefinitely. Neither voluntary withdrawal of the Contractor from the WIC Program nor non-renewal by the Department of this MOU constitutes an alternative to disqualification from WIC Program participation in the case of a Class A or Class B violation.

G. If the Contractor fails, neglects, or refuses to perform any of the conditions herein according to the terms specified, then the Contractor shall forfeit its rights to participate in the WIC Program and may be required to pay to the Department as liquidated damages:

(1) the full amount of the Contractor's reimbursement from the Department for cash, credit, unauthorized foods, or other items of value provided to WIC participants in lieu of, or in addition to, authorized supplemental foods;

(2) the full amount of the difference between the value of the WIC benefit and the cost of the food provided when the Contractor provides less food than called for on and payable with the WIC benefit;

(3) the full amount of the difference between the Contractor's customary price and the cost charged to the Department when the Contractor charges the WIC Program more for supplemental foods than charged other customers for the same food items; and

(4) the Department's reasonable administrative costs to respond to the Contractor's lack of performance, such as the cost of copies of redeemed WIC benefits and staff time spent collecting data related to the lack of performance.

(5) The Department reserves the right to take the Contractor's history and all circumstances into consideration before applying sanctions or disqualification of the Contractor due to a Class C or D violation or violations.

SECTION 7: ACCOUNTING, AUDITING, RECORD RETENTION, COST PRINCIPLES, AND ACCESS TO RECORDS

A. The Contractor agrees to maintain inventory records used for federal tax reporting purposes and other records of the activities covered by this MOU and to allow access to them by the Department, the U.S. Department of Agriculture, the Comptroller General of the United States and, in addition, the legislative auditor as may be necessary for legislative audit and analysis purposes in determining compliance with the terms of this MOU, as required by Section 5-13-304, Montana Code Annotated. In addition to the provisions of Section 5, this MOU may be terminated upon any refusal of the Contractor to allow the access to records referred to above.

B. Purchase invoices, shelf price information, and all other records documenting the services provided by the Contractor under this MOU must be retained for a period of three years. The Contractor agrees to make the records described herein available at all reasonable times at its general offices. If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved.

C. All WIC benefits in the Contractor's possession and all program-related records must be made accessible for inspection and audit purposes, upon request by the Department, the Department of Agriculture, the Comptroller General, or the legislative auditor.

SECTION 8: VENUE; DISPUTES

A. The parties agree that, in the event of litigation concerning this MOU, the venue shall be in the First Judicial District of the State of Montana, in and for the County of Lewis and Clark. Any question regarding the terms and conditions of this MOU shall be construed under the laws of the State of Montana.

B. This MOU is not subject to arbitration.

SECTION 9: CIVIL RIGHTS; EQUAL OPPORTUNITY

A. Pursuant to Sections 49-2-303 and 49-3-207 of the Montana Code Annotated, the Contractor agrees to perform no part of this MOU in a manner which discriminates against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, physical or mental disability, national origin or ancestry. Any hiring must be on the basis of merit and qualifications directly related to the requirements of the particular position being filled.

B. In addition, the Contractor must be in compliance with provisions of federal regulations 7 CFR 15, 15a, and 15b and 7 CFR Section 246.8 and must refrain from discriminating against any individual because they are a participant in the WIC Program.

C. The Contractor agrees to comply with the Federal Civil Rights Act of 1964, the Federal Rehabilitation Act of 1973, and all other laws of the United States and the State of Montana which prohibit discrimination.

SECTION 10: COMPLIANCE WITH STATE AND FEDERAL LAWS

A. The Contractor shall at all times throughout the term of the MOU be in full compliance with state and federal statutes, regulations, policies, and procedures governing the Program, including any changes made during the term of this MOU. The enactment, after execution of any MOU, of any state or federal statute or promulgation of implementing regulations therein shall be reviewed by the Department and the Contractor to determine whether the provisions therein require an amendment to the MOU.

B. The Contractor must not, at any time during this MOU, permit any individual employed by the state to gain a share of this MOU or to benefit therefrom because of a financial interest in the MOU, the Contractor, any affiliate of the Contractor, or any subcontractor.

SECTION 11: HOLD HARMLESS; INDEMNIFICATION

A. The Contractor shall hold harmless and indemnify the Department and its agents, principals, and employees from and against all claims, damages, losses, demands, judgments, and costs of suit, defense expenses, and attorney's fees to the extent arising out of or resulting from the Contractor's wrongful acts, errors, omissions, or negligence, or from the Contractor's failure to comply with the requirements of this MOU or with all federal, state, and local laws, regulations, and ordinances applicable to the work to be done under this MOU.

B. The Department shall hold harmless and indemnify the Contractor and its agents, principals, and employees from and against all claims, damages, losses, demands, judgments, and costs of suit, defense expenses, and attorney's fees to the extent arising out of or resulting from the Department's wrongful acts, errors, omissions, or negligence, or from the Department's failure to comply with the requirements of this MOU or with all federal, state, and local laws, regulations, and ordinances applicable to the work to be done under this MOU.

SECTION 12: MODIFICATIONS AND PREVIOUS MOU'S

This instrument contains the entire MOU between the parties, and no statements, promises, or inducements made by either party or agent of either party which are not contained in this written MOU are valid or binding. This MOU may not be enlarged, modified, or altered except in writing, signed by both of the parties, with the exception of the unilateral amendments allowed by Section 15 (C). No change, addition, or erasure of any printed portion of this MOU is valid or binding upon either party.

SECTION 13: SEVERABILITY

It is understood and agreed by the parties hereto that if any term or provision of this MOU is by the courts held to be illegal or in conflict with any Montana law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the MOU did not contain the particular term or provision held to be invalid.

SECTION 14: ASSIGNMENT; SUBCONTRACTING; CESSATION OF BUSINESS; CHANGE OF BUSINESS LOCATION

A. The parties agree there will be no assignment or transfer of this MOU, or of any interest in this MOU. The parties agree that no services required under this MOU may be performed under subcontract unless both parties agree in writing.

B. The Contractor agrees not to sell, assign, or transfer in any manner this MOU, WIC authorization, the WIC retailer stamp, or WIC Retailer Number. It is further agreed that any actual or attempted sale, assignment, or transfer of the above shall be considered a breach of this MOU. The death of the Contractor (if an individual) or the voluntary or involuntary dissolution of the Contractor shall cause the Contractor's authorization and this MOU to be terminated.

C. The Contractor further agrees to notify the Department, in writing, sixty (60) calendar days in advance of any scheduled sale, lease, bankruptcy, or cessation of the Contractor's business entity or the sale of any majority interest of any corporation or partnership. The MOU shall terminate upon change of ownership or cessation of business.

D. Contractor shall give the Department written notice at least sixty (60) calendar days in advance of changing the physical location of Contractor's retail operations. In general, a change of location of Contractor's retail operations will result in termination of this MOU on the date of the change of location. However, the Department, in its sole discretion, may allow Contractor to move its retail operations a short distance without termination of the MOU. The Department's determination regarding whether a change in location qualifies as a short distance shall not be subject to administrative review.

SECTION 15: GENERAL CONDITIONS

A. The Contractor shall inform the Department of any potential or real conflict of interest between WIC staff, either state or local, and Contractor personnel. Conflicts of interest may include, but are not limited to, the following:
   (1) Employing a state or local WIC agency staff member or spouse, son, daughter, parent or sibling of a state or local WIC agency staff member.
   (2) Giving a fee or gift to a state or local WIC program staff member in exchange for being provided WIC information, for WIC staff action that would materially benefit the Contractor, or for preferentially promoting the Contractor. [Note: Donations to a promotional event encouraging WIC participation are not considered to create a conflict of interest.]
   (3) Accepting, either directly or through a relative, a substantial gift of financial assistance from a state or local WIC staff member.
   (4) Entering into a business transaction with a state or local WIC staff member or allowing such a staff member to acquire a pecuniary interest in the Contractor.

B. The Department will terminate the MOU if it identifies a conflict of interest, as defined by applicable State laws, regulations, and policies, between the Contractor and either state or local WIC agencies.

C. The Department may unilaterally amend this MOU, in writing, to include or incorporate additional provisions that are required as a result of a change in federal or state statutes or rules or that are required by the Department for the administra-

tion, operation, or evaluation of the WIC Program. The Contractor shall receive thirty (30) calendar days advance notice of the effective date of such amendments. Should any such amendment be determined to be unacceptable by the Contractor, the Contractor may voluntarily withdraw from participation.

D. The Department's obligations under this MOU shall cease immediately without penalty if the Montana legislature or the source of federal funding for the WIC benefits fails to appropriate or otherwise make available sufficient funds to continue the WIC Program.

E. The Contractor holds the Department harmless for any liability for any compensation, award, or damage in connection with the Contractor's performance as a WIC Contractor for any injury which might occur to any of the Contractor's employees, WIC participants, or others as the result of any act, omission, or negligence of the Contractor.

SECTION 16: COMPLIANCE WITH LABOR LAWS

A. The Contractor assures the Department that the Contractor is an independent contractor providing services for the Department and that neither the Contractor nor any of the Contractor's employees are employees of the Department under this MOU or any subsequent amendment.

B. The Contractor, at all times during the term of this MOU, must maintain coverage for the Contractor and the Contractor's employees through workers' compensation, occupational disease, and any similar or related statutorily required insurance program. The Contractor must provide the Department with proof of necessary insurance coverage.

C. If the Contractor has received, for workers' compensation purposes, an independent contractor exemption as to the Contractor, the Contactor must provide the Department with a copy of the exemption.

D. The Contractor is solely responsible for and must meet all labor, health, safety, and other legal requirements, including payment of all applicable taxes, premiums, deductions, withholdings, overtime and other amounts, which may be legally required with respect to the Contractor and any persons providing services on behalf of the Contractor under this MOU.

E. The provision of this contract regarding indemnification applies with respect to any and all claims, obligations, liabilities, costs, attorney fees, losses or suits accruing or resulting from the Contractor's failure to comply with this section, or from any finding by any legal authority that any person providing services on behalf of the Contractor under this contract is an employee of the Department.

SECTION 17: NO CREATION OF LICENSE OR PROPERTY INTEREST

This MOU does not constitute a license or property interest on the part of Contractor. If the Contractor wishes to continue to be authorized beyond the period of its current MOU, the Contractor must reapply for authorization. If the Contractor is disqualified, the Department will terminate the Contractor's MOU, and the Contractor will have to reapply in order to be authorized after the disqualification period is over. In all cases, the Contractor's new application will be subject to the Department's selection criteria and any vendor limiting criteria in effect at the time of the reapplication.

SECTION 18: LIAISONS

The Contractor's liaison to the Department for purposes of this MOU is X, or his/her successor at phone number X or at the address noted below.

X
X

The Department's liaison to the Contractor for purposes of this MOU is Joan Bowsher, or her successor at the Department's WIC Program, Cogswell Building, P.O. Box 202951, Helena, Montana 59620-2951 [phone: 406-444-4747].

SECTION 19: SCOPE, AMENDMENT AND INTERPRETATION OF MOU

This MOU consists of 14 numbered pages and Attachments A and B. This is the entire MOU between the parties.

The parties through their authorized agents have executed this MOU on the dates set out below.

MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

By: _____ Date _____

Todd Harwell, Administrator
Department of Public Health & Human Services
Public Health & Safety Division
1400 Broadway B201
Helena MT 59620-2951
(406) 444-4141

X

By: _____ Date _____

X

X
X
X
Federal ID # X