

Section III: State Agency Procedure Manual

I. State Vendor and Farmer Management

G. Compliance Investigations

Purpose

Program compliance is mandatory to operate an efficient and effective program.

Policy

A minimum of five (5) percent of all WIC authorized retailers will receive a compliance investigation annually. High-risk criteria will be applied uniformly to all retailers, and at least the top 5 percent of the retailers with the highest risk score will be selected for a compliance investigation.

1. High Risk Criteria

- High-risk criteria will include, but not be limited to:
 - Low variance in benefit prices;
 - High average price in peer group;
 - High average prices compared to Maximum Allowable Reimbursement (MAR);
 - Large percentage of transactions redeemed at the same price or within a narrow range;
 - Multiple participant complaints against the vendor;
 - New vendors;
 - Significant volume change;
 - High volume of WIC business;
 - High volume of transactions where the vendor's county is different from the WIC customer's county of residence;
 - Vendors with a history of corrective actions in the last three years;

2. Compliance Investigations

- Compliance investigations shall be accomplished by conducting either a compliance purchase or inventory audit at the Programs discretion
- A compliance purchase is defined as a covert purchase made using an eWIC card by WIC staff, or their contracted designee. The purchase is made without notifying the retailer's management or staff.
- Pre-purchase Procedure:
 - Prior to the store visit, the compliance investigator may review the retailer's file to learn if the retailer has a history of non-compliance.
 - Any staff or contractor who will complete a compliance investigation, training and education will be provided and will include (but is not limited to) the following topics:
 - Steps in the compliance buy process;
 - Process for completing the Compliance Buy Report;
 - Reminder not to invoke sympathy or try in any way to convince or coerce the cashier to allow any possible non-authorized foods to be purchased;

- Circumstances when to leave the store immediately;
- Which WIC foods to purchase, and the procedures for using an eWIC benefit.

3. Compliance Buy Process:

- There will always be at least two compliance purchases made at each retailer in order to establish a pattern of compliance or non-compliance. These purchases can occur on the same day.
- The investigator will complete and document the following during a compliance purchase:
 - Note time of store entry.
 - Verify display of the “We Accept WIC Benefits” decal.
 - Verify proper use of WIC shelf tags (consistent and accurate for all WIC food items in the store).
 - Request from a cashier a beginning balance statement from the point of sale.
 - Select the food items to purchase and make note of their posted shelf price.
 - The investigator will tell the cashier before the items are rung up that he/she will be using an eWIC card.
 - At the second compliance purchase, if possible, a different cashier should be used for checkout.
 - Once the purchase is complete the investigator will take all the receipts (beginning balance, confirmation, and ending balance) and the items purchased, leave the store and complete the appropriate documentation on the compliance buy report.
 - The investigator will return the report and store receipts to the State Agency.
 - All food items will be photographed and kept on file at the State Agency.
 - Finally, the investigator will donate all the food items to a food bank or similar organization.
 - A receipt, which is filed with the final report, will be signed by the staff at the organization acknowledging the donation.
 - Once the compliance investigation is completed the State Agency will send a letter to the retailer describing the results of the investigation. Follow up training and education will be offered as necessary. The retailer will be informed of possible sanctions being assigned if a pattern of violations occurred.
- Outcomes of Compliance Purchases
 - A successful transaction is one in which no Class A or B violations occur, and no adverse action is applied.
 - A failed transaction is one in which the retailer commits a Class A or B violation.
 - If class C or D violations occur during the compliance visit the retailer will still pass the compliance investigation.
 - Two failed transactions will result in the case being closed and sanctions will be imposed.
 - If there is one failed and one successful transaction, an additional compliance purchase will have to be made to determine if there have been two failed or two successful transactions.
 - In the instance of a failed compliance purchase, retailers should be given at least 30 days from notification prior to an additional compliance purchase to allow for training.
- Follow-up procedures if “No Adverse Action” is applied:

- The State Agency will review the benefit transaction in SOAR after redemption. A case file will be completed on the investigation by the State Agency. This may include:
 - Any reports or complaints that were used to select the retailer for a compliance purchase; the investigation report; any receipts from the transaction; any document of prior warnings or retailer visits; the letter sent to the retailer notifying the retailer of the compliance purchases; any correspondence from the retailer regarding the case, including documentation of phone contact; any materials relating to a Administrative Review if one is requested, including the decision of the hearing office.
- The retailer will be notified by mail of the results of the compliance investigation within 45 days of the initial compliance purchase. If the retailer is under further investigation a letter will not be sent.
- The Local Agency will receive a copy of the letter.

4. Inventory Audit

- An inventory audit is defined as the comparison of reported WIC purchases against the retailer's inventory records for a specific period.
 - Inventory audits will not be announced in advance. The local agency will not be informed of inventory audits conducted in their area.
- The WIC Retailer Agreement, in Section VI: Accounting, Auditing, Record Retention, Cost Principles and Access to Records, required retailers to maintain inventory records and other records related to purchases for a minimum three-year period.
- Procedure
 - A WIC staff member or a designated representative will visit the retailer to determine the total amount of stock available. This includes what is on the shelves as well as in the storage area. This must occur on the first day of the inventory period.
 - On the last day of the inventory period, a WIC staff member or a designated representative will visit the retailer to calculate the total amount of stock available.
 - A WIC staff member or a designated representative will visit the retailer's offices. A request to view the invoice receipts will be made at that time. A calculation based on the beginning stock, the ending stock, and the amount of stock purchased according to the Invoice receipts will be compared to redemption records to verify the amount of stock presumed sold in WIC purchases.

5. Follow-up Actions

- Follow-up Actions to either a compliance buy or inventory audit will include:
 - The retailer will be notified, by certified mail, of the investigation, violations found and the subsequent consequences, if applicable. A copy will be sent to the local agency.
 - The retailer can appeal any sanction or disqualification. Retailers must request a Administrative Review from the Montana WIC Program.
 - The Montana WIC Program will notify the Regional FNS Office of any WIC retailer disqualification. If the retailer involved is part of a "chain", the chain's regional/district manager will be notified.

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