

Vendor Civil Monetary Penalties**Policy No. VM- 130.02**

Effective Date: October 1, 2016

No. of Pages: 4

Policy

A Civil Monetary or Money Penalty (CMP) may be assessed against vendors in lieu of a disqualification, in order to emphasize the seriousness of Program compliance and to allow the vendor to continue to serve an otherwise inadequately covered WIC participant population. A CMP does not relieve a vendor of financial liability for previous compliance issues or outstanding claims. All liabilities must be paid in addition to an assessed CMP.

Purpose

Under special circumstances, the Georgia WIC Program may impose Civil Monetary Penalties where the disqualification of a vendor would result in inadequate participant access, causing a hardship to WIC participants.

Procedures

- I. Prior to disqualifying a vendor for any federal mandatory or state agency violations, Georgia WIC must determine if disqualification of the vendor will result in inadequate participant access (IPA). Inadequate participant access occurs when there is not another authorized WIC vendor within ten (10) miles of the vendor who has committed the violation. Only when Georgia WIC determines and documents that disqualification of the vendor would result in inadequate participant access, a civil money penalty must be imposed in lieu of disqualification. CMPs will only be assessed for both state and federal mandatory sanctions in the event of inadequate participant access, as determined by Georgia WIC. The CMP shall not exceed \$11,000.00 per violation, or \$49,000.00 for multiple violations occurring during a single investigation.
- II. CMPs must be paid within thirty (30) days of the notice of approval. Installments may be considered up to a maximum of six (6) months. If a vendor does not pay, partially pays, or fails to pay a CMP assessed in lieu of disqualification on time, the Georgia WIC Program will disqualify the vendor for the length of the disqualification corresponding to the violation for which the CMP was assessed. A CMP does not relieve a vendor of the financial liability for timely payment of claims assessed for vendor violations or errors. Assessed claims must be paid in addition to the CMP.

III. CMP Methodology for State Agency Sanctions

A vendor may be assessed a CMP in lieu of disqualification if the disqualification will result in inadequate participant access. Upon assessment of a CMP, the disqualification period will be waived. Subsequent visits may be conducted during a waived disqualification period. If violations occur during a subsequent visit, a vendor will be assessed a warning for those violations and may be issued another CMP in lieu of disqualification if the requisite pattern of violations is met. Only two (2) CMPs may be assessed against a vendor. A vendor will be disqualified from the Georgia WIC Program for third and subsequent sanctions.

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CMPs will be assessed in lieu of disqualification for State Agency sanctions based on the chart below.

Civil Money Penalty Formula for State Agency Sanctions Based on Six Month WIC Redemption		
Category	For \$0 to \$11,000 in Redemptions (CMP Base Rate)	For Redemption Amount Above \$11,000 (CMP= Base Rate + % of Total Redemption over \$11,000)
Category I	\$500	\$500 + 1% of redemption over \$11,000
Category II	\$1,000	\$1,000 + 2% of redemption over \$11,000
Category III	\$1,500	\$1,500 + 3% of redemption over \$11,000

For State agency Sanctions, the first CMP will be reduced by fifty (50) percent if the vendor presents documented proof that they had an effective training program in place. At a minimum, the training content must be centered around cashier operations which have a direct impact on the quality of adhering to WIC policies and procedures as an authorized WIC vendor. The vendor is responsible for informing and training all of its cashiers and other staff on the most current WIC policies and procedures, at all times.

The submitted training documentation must show proof of the following:

- A. An outline of training content covered
- B. The name of the store personnel administering the training
- C. The signature, date of signature by the trainer next to a statement attesting to having administered the content as outlined
- D. A list of the names of the personnel trained
- E. A signature of personnel in attendance next to their listed name
- F. The date and location of the training

Note: this training must be held during the fiscal year and before the disqualification notification.

CMPs cannot exceed \$11,000.00 per violation or \$49,000.00 per investigation. If more than one (1) violation is detected during a compliance investigation, a CMP must be imposed for each violation (up to the \$11,000.00/\$49,000.00 limits). Only two (2) CMPs can be assessed against a vendor. CMPs cannot be imposed in lieu of disqualification for third and subsequent sanctions in these categories.

IV. CMP Methodology for Mandatory Sanctions

For a violation that warrants permanent disqualification, the amount of the CMP shall be \$11,000.00 for each violation, not to exceed \$49,000.00.

For each violation subject to a mandatory sanction, the following formula will be used to calculate the amount of the CMP imposed in lieu of disqualification.

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- A. Determine the vendor's average monthly redemptions for at least the six (6) months ending immediately preceding the month during which the notice of the adverse action is dated.
- B. Multiply the average monthly redemptions figure by ten (10) percent.
- C. Multiply the amount from step 2 above by the number of months for which the store would have been disqualified. This is the amount of the civil money penalty, provided that the civil money penalty shall not exceed \$11,000.00 per violation. The total amount of the CMP assessed for violations that occur during a single investigation may not exceed \$49,000.00.

If a vendor who received a Categories IV, V or VI sanction receives a second sanction in any of these categories, the second sanction must be doubled. However, CMPs can only be doubled up to the limits stated above. CMPs cannot be imposed in lieu of disqualification for third and subsequent sanctions in these categories.

V. Disqualifications and CMPs

- A. If a vendor has been assessed a CMP in lieu of disqualification for a SNAP violation, the vendor agreement will be terminated for the initially issued SNAP disqualification period.
- B. Disqualification from the WIC Program may also result in a civil money penalty or disqualification from SNAP. Such disqualification may not be subject to administrative or judicial review under SNAP.
- C. If a vendor is disqualified or assessed a civil money penalty (CMP) for a federal mandatory sanction from the WIC Program in another state (see federal mandatory sanctions), the vendor will be disqualified from the Georgia WIC Program for the same period of time.
- D. A vendor may be assessed (CMP) in lieu of disqualification, if the disqualification will result in inadequate participant access. Upon assessment of a CMP, the disqualification period will be waived. Subsequent visits may be conducted during a waived disqualification period. If violations occur during a subsequent visit, the vendor will be disqualified for a period equal to the period that the CMP was assessed or a second CMP may be imposed.

The imposition of a civil money penalty in lieu of disqualification is subject to full administrative review upon the timely request by the vendor.

The following adverse actions shall be subject to abbreviated administrative review upon timely request by the vendor:

- A. denial of authorization based on the vendor selection criteria for business integrity or for a current SNAP disqualification or civil money penalty for hardship;
- B. disqualification based on the imposition of a SNAP civil money penalty for hardship;
- C. a civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC State agency;

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- D. a civil money penalty imposed in lieu of disqualification based on a SNAP disqualification.

The following adverse actions are not subject to administrative review:

- A. The validity or appropriateness of the State agency's vendor limiting criteria or vendor selection criteria for minimum variety and quantity of supplemental foods, business integrity, and current SNAP disqualification or civil money penalty for hardship;
- B. The validity or appropriateness of the State agency's participant access criteria and the State agency's participant access determinations;
- C. Disqualification of a vendor as a result of disqualification from SNAP.

Authority

7 C.F.R. § 246.12(g)(3)(iii)

7 C.F.R. § 246.12(l)

7 C.F.R. § 246.4(a)(14)(iii) and (v)

Definitions/Supporting Information

Civil Money Penalty- A monetary penalty that can be assessed in lieu of a sanction.

VM-120.02 Assessment of Sanctions For Vendor Violations and Participant Access Determinations

VM-130.03 Vendor Violations and Sanctions

Contact Information

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