

Vendor Violations and Sanctions**Policy No. VM-130.03**

Effective Date: October 1, 2016

No. of Pages: 7

Policy

Any authorized WIC vendor found to be in violation of federal regulations or Georgia WIC policy will be assessed a sanction consistent with the severity and nature of the violation. Vendor violations means any intentional or unintentional action of a vendor's paid or unpaid owners, officers, managers, agents or employees, with or without the knowledge of management, that violates the WIC Vendor Agreement or federal or state statutes, regulations, policies or procedures governing the Program.

There are seven (7) categories of sanctions: three (3) categories of state agency sanctions and four (4) categories of federal mandatory sanctions. State agency sanctions are established by Georgia WIC program representatives and have been approved by the United States Department of Agriculture (USDA) prior to implementation. State agency sanctions include disqualification, and civil money penalties assessed in lieu of disqualification in the event of inadequate participant access. Federal mandatory sanctions are established by the USDA. Both state agency and federal mandatory sanctions must be enforced when violations occur.

Violations are categorized by the nature and severity of the violation. Each category has a prescribed period of disqualification. Sanctions shall be assessed as follows:

- A. In the event of multiple violations, the highest sanction assessed to a vendor shall determine the period of disqualification.
- B. All State agency violations assessed are retained in the vendor's file for a period of one (1) year and will roll off at the end of that period.
- C. If both mandatory and state agency sanctions result from a single investigation, and the disqualification for a mandatory sanction is not upheld during the administrative review process, then Georgia WIC may impose the state agency sanction.

Georgia WIC will notify a vendor in writing when an investigation reveals an initial incidence of a program violation for which a pattern of incidences must be established to impose a sanction before another violation is documented, unless Georgia WIC determines that notifying the vendor would compromise an investigation.

Purpose

To define the vendor violations and the corresponding sanctions that constitute the Georgia WIC Program's sanction schedule.

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Procedures**I. Disqualification**

A vendor will be disqualified from Georgia WIC for committing certain program violations. The actual disqualification period is determined using the same criteria for every vendor.

A. Georgia WIC will not accept voluntary withdrawal as an alternative to disqualification.

B. A vendor that has been disqualified from SNAP will be disqualified from WIC for the same period of time. 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.

C. 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.

D. 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.

E. 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.

II. Effective Date of Adverse Actions

Denials of vendor authorization and permanent disqualifications are effective on the **date of receipt** of the notice of the adverse action, at which time the vendor stamp will be discontinued. All other adverse actions against a vendor are effective fifteen days after the **date of the notice** of the adverse action. For those adverse actions resulting in disqualification (other than denials of vendor authorization and permanent disqualifications), use of the vendor stamp shall be discontinued fifteen days after the date of the notice of the adverse action. Any food instruments submitted for payment after fifteen days of the date of the notice of the adverse action will not be paid. All adverse actions shall remain in effect during the administrative review process.

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Vendor Sanctions

Below is a description of the Georgia WIC sanction system and how it works. For those violations that require a pattern, a pattern is established when the same violation occurs at least twice.

III. State Agency Sanctions

If a violation occurs in Category I, the vendor will receive written warning for the first offense. If the **same** violation occurs a second time within twelve (12) months from the date of this first offense warning notification, the vendor will receive another warning for the second offense. If the **same** violation occurs a third time within twelve (12) months from the date of this first offense warning notification, the vendor will be disqualified for the time period specified for that category (six months).

If a violation occurs in Category II, the vendor will receive written warning for the first offense. If the **same** violation occurs a second time within twelve (12) months from the date of this first offense warning notification, the vendor will receive another warning for the second offense. If the **same** violation occurs a third time within twelve (12) months from the date of this first offense warning notification, the vendor will be disqualified for the time period specified for that category (eight months.)

If a violation occurs in Category III, the vendor will receive written warning for the first offense. If the **same** violation occurs again within twelve (12) months from the date of this first offense warning notification, the vendor will be disqualified for the time period specified for that category (ten months).

If a vendor receives a warning letter and desires further explanation, the vendor may call Georgia WIC and speak with the Vendor Relations Unit Manager or submit a written request for further explanation to Georgia WIC.

IV. State Agency Sanctions Category I - Disqualification for six months on third violation

- A. Stocking or selling out of date and/or inconsumable WIC food commodities to WIC participants. This will include any WIC product that has a specific expiration date, sell by, best if sold by or similar wording with a date printed on the container. **Note:** All observed concerns with sanitation and food safety will be immediately reported to the Georgia Department of Agriculture.
- B. Failure to allow in-store or manufacturers' promotional or free item with a WIC purchase.
- C. Failure to submit or return requested documentation, other than food instruments or inventory records, food sales, tax information, or documentation for annual training, by the stated deadline.

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- D. Failure to stock the required inventory of contract formula.
 - E. Failure to stock the required inventory of any WIC food items other than contract formula.
 - F. Claiming reimbursement for a food item for which there has been no submitted shelf price.
- V. State Agency Sanctions Category II - Disqualification for eight months on third violation
- A. Allowing the purchase of WIC foods in unauthorized container sizes.
 - B. Requiring WIC participants to show any identification other than the WIC identification card.
 - C. Use of a non-approved label by a bread manufacturer in the vendor's store.
 - D. Prices not marked on or near WIC foods with the exception of Infant Formula or Fruits or Vegetables.
- VI. State Agency Sanctions Category III - Disqualification for ten months on second violation
- A. Failure to ring up a sale of WIC purchases.
 - B. Failure to write the price on a food instrument before the participant signs in plain sight of the participant during the WIC transaction.
 - C. Refusing to accept a valid WIC food instrument from a participant.
 - D. Allowing the substitution of one WIC approved food item listed on the food instrument for another WIC approved food item not listed on the food instrument.
 - E. Failure to repay charges within thirty (30) days.
 - F. Contacting WIC participants for any reason regarding a WIC transaction.
 - G. Requiring participant to pay cash to redeem WIC food instruments, except for personal payments for amounts over the maximum amount of a Cash Value/Fruit and Vegetable Food Instrument.
 - H. Allowing the purchase of any formula other than the one specified on the front of the food instrument.
 - I. Failing to provide a WIC participant with the same courtesies as other customers
 - J. Prices not marked clearly on or near WIC infant formula.

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- K. Allowing WIC food items to exceed the quantity specified on the food instrument (except for manufacturers' or in-store promotional or free items that are offered to all customers.)
- L. Failure to allow the purchase of any WIC food item.
- M. Issuing a "rain check"/IOU for WIC approved foods.
- N. Charging sales tax on a WIC food item other than on the amount that exceeds the value of the Cash Value Fruit and Vegetable Voucher.
- O. Failure to provide WIC participants with a receipt.
- P. Failure to check a WIC customer's WIC ID card/folder.
- Q. Tampering with the manufacturer dates on any food item.

VII. Federal Mandatory Sanctions

If a vendor previously has been assessed a Mandatory Sanction for any of the violations carrying one, three or six year disqualifications, and receives another sanction for any of these violations, then the second sanction will be doubled. If a civil money penalty is imposed in lieu of disqualification, then the amount of that penalty will be doubled up to the maximum limits per violation.

If a vendor previously has been assessed two or more sanctions for any of the violations carrying one, three or six year disqualifications, and receives another sanction for any of these violations, then the third sanction and all subsequent sanctions will be doubled. Civil money penalties shall not be imposed in lieu of disqualification for third or subsequent sanctions.

VIII. Federal Mandatory Sanctions Category IV - Disqualification for one year

- A. A pattern of providing unauthorized food items in exchange for food instruments or cash value vouchers, including charging for supplemental foods provided in excess of those listed on the food instrument.
- B. A pattern of an above-50-percent vendor providing prohibited incentive items to customers.

IX. Federal Mandatory Sanctions Category V - Disqualification for three years

- A. A pattern of receiving, transacting, or redeeming food instruments or cash-value vouchers outside of authorized channels, such as at locations different from the authorized location

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listed on the Vendor Agreement, or the use of an unauthorized vendor or an unauthorized person. This includes but is not limited to delivering WIC food items to WIC participants, collecting WIC food instruments prior to completing the WIC transaction or collecting the WIC food instruments prior to the "first date of use" on the food instrument.

- B. A pattern of 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 instruments or cash-value vouchers.
- C. A pattern of vendor overcharges.
- D. A pattern of charging for supplemental food not received by the participant. This includes but is not limited to vendor representatives receiving WIC foods not received by the participants. The WIC participant does not have the authority to give WIC foods to vendor or its representatives and neither does the vendor or its representatives have the authority to accept such WIC food items.
- E. A pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time.
- F. One incidence of providing alcohol or alcoholic beverages or tobacco products in exchange for WIC food instruments or cash-value vouchers.

X. Federal Mandatory Sanctions Category VI - Disqualification for six years

- A. One incidence of buying or selling WIC food instruments or cash value vouchers for cash (trafficking).
- B. One incidence of selling firearms, ammunition, explosives, or controlled substances, in exchange for food instruments or cash-value vouchers.

XI. Federal Mandatory Sanctions Category VII - Permanent disqualification

- A. Conviction for trafficking in food instruments or cash-value vouchers
- B. Conviction for selling firearms, ammunition, explosives, or controlled substances in exchange for food instruments or cash value vouchers.

XII. Additional Notes on Violations

- A. Vendors who commit fraud or abuse in the program are subject to criminal prosecution. Those who have willfully misapplied, stolen or fraudulently obtained program funds will be subject to a fine of not more than \$25,000.00 or imprisonment for not more than five years,

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or both, if the value of the funds is \$100.00 or more. If the value is less than \$100.00, the penalties are fines of not more than \$1,000.00 or imprisonment for not more than one year, or both. Georgia WIC will refer all criminal activity including theft and fraud to law enforcement.

- B. When Georgia WIC determines that a vendor has committed a vendor violation that affects payment to the vendor, Georgia WIC will delay payment and establish a claim. In addition to delaying payment and asserting a claim, Georgia WIC may sanction the vendor for vendor overcharges or other errors in accordance with the sanction schedule. Payment of food instruments submitted through the banking system by the vendor will be suspended as of the date of the notice of adverse action pending review by Georgia WIC. The vendor will be instructed to submit all outstanding food instruments to Georgia WIC for review and payment consideration.

Authority

7 C.F.R. § 246.12(h)(5)

7 C.F.R. § 246.12(l)

Definitions/Supporting Information

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

VM-130.02 Vendor Civil Money Penalties

VM-140.01 Vendor Appeals

Contact Information

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