

902 KAR 18:011. Definitions for 902 KAR Chapter 18.

RELATES TO: KRS 194A.050, 194A.505, 194A.990, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802

STATUTORY AUTHORITY: KRS 194A.050, 211.090(3), 7 C.F.R. Part 246, 42 U.S.C. 1786

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 1786 and 7 C.F.R. Part 246 provide for grants for state operation of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). KRS 194A.050(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations as necessary to qualify for the receipt of federal funds. This administrative regulation establishes definitions for the terms used in 902 KAR Chapter 18.

Section 1. Definitions. (1) "Above-50-percent vendor" means a vendor that receives or is expected to receive more than fifty (50) percent of its annual food sales revenue from WIC benefits.

(2) "Alcohol" is defined by KRS 241.010(1).

(3) "Alcoholic beverage" is defined by KRS 241.010(2).

(4) "Approved product listing" or "APL" means an electronic list or file identifying the food items approved by the state WIC agency for purchase with WIC food instruments by food category and subcategory.

(5) "Authorized supplemental food" means a supplemental food authorized by the state or a local agency for issuance to a particular participant.

(6) "Cash value voucher" is defined by 7 C.F.R. 246.2.

(7) "Certifying professional authority" means a person authorized to determine eligibility and certify persons for the WIC program.

(8) "Class" means food sale classification.

(9) "Compliance buy" means a covert, on-site investigation.

(10) "Contract price" means the price for a WIC food item negotiated between the state WIC agency and the vendor.

(11) "Dual participation" means simultaneous participation in the WIC Program and in:

(a) One (1) or more WIC clinics; or

(b) The Commodity Supplemental Food Program.

(12) "Electronic WIC benefits" or "eWIC" means a Web-based technology that allows WIC participants to obtain food benefits by using a plastic debit-type card with a personal identification number (PIN) at authorized participating WIC retailers.

(13) "Exempt infant formula" is defined by 7 C.F.R. 246.2.

(14) "FNS" means Food and Nutrition Services.

(15) "Food instrument" is defined by 7 C.F.R. 246.2.

(16) "Good letter with exceptions" means a written notification letter that:

(a) A compliance buy has been conducted in the store;

(b) A violation occurred; and

(c) No sanction was applied due to lack of pattern of incidence.

(17) "High risk vendor" means a vendor having a high probability of noncompliance with KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18.

(18) "Integrated" means a commercial system that fully incorporates eWIC functionality into an existing cash register (ECR) system.

(19) "Inventory audit" means an examination of food invoices or other proof of purchase to determine if a vendor has purchased sufficient quantities of authorized supplemental food to

provide to participants the quantities of food items redeemed by the vendor during a given period of time.

(20) "Investigation" means a method used by the state WIC agency to detect a WIC program violation.

(21) "Local agency" means an applying or participating WIC agency.

(22) "Low variance" means the redemption of the same type of food item at the same price or within a narrow price range.

(23) "Medical foods" means enteral products that are specifically formulated to provide nutritional support for individuals with a qualifying condition when the use of conventional foods is precluded, restricted, or inadequate.

(24) "Not to exceed" or "NTE" means:

(a) FNS-approved cost containment methodology whereby WIC authorized vendors are subject to price limitations; and

(b) the maximum amount that Kentucky will pay for a specific food item identified by its UPC code.

(25) "Participant" means:

(a) A pregnant, breastfeeding, or postpartum woman or an infant or child who is receiving supplemental food or food instruments;

(b) The breastfed infant of a breastfeeding woman who is receiving WIC program benefits;

(c) The parent or caretaker of an infant or child receiving a WIC benefit; and

(d) The proxy for a person identified in paragraphs (a), (b), or (c) of this subsection.

(26) "Participant violation" means an intentional, knowing act of a participant that violates KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18.

(27) "Peer Groups" means categories into which vendors are assigned based upon sales volume and region.

(28) "PIN" means a unique four (4) digit personal identification number designated by the WIC participant.

(29) "Point of sale" or "POS" means the system supporting WIC/eWIC food transactions in a store checkout lane.

(30) "POS device" means a physical electronic cash register or dedicated point of sale hardware or terminal that is used for WIC processing.

(31) "Positive buy" means a compliance buy, on-site review, or on-line WIC transaction review that provides evidence that a violation of the vendor agreement or KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18 has occurred.

(32) "Price look up" or "PLU" means a four (4) or five (5) digit identifier used to identify individual and bulk produce.

(33) "Proxy" means a person designated by a female participant or by a parent or caretaker of an infant or child participant to obtain and transact a food instrument or cash value voucher to obtain a supplemental food or foods on behalf of a participant.

(34) "Routine monitoring" means overt, on-site monitoring during which representatives of the WIC program identify themselves to vendor personnel.

(35) "Rural" means any area not defined as urban.

(36) "Shelf price" means the price displayed on the food item, shelf, or display case where the food item is stored.

(37) "SNAP" means the Supplemental Nutrition Assistance Program, formerly known as the Food Stamp Program.

(38) "Standard bar code" means a printed series of lines of varying width on a container or product that can be read by an optical scanner to determine product classification and price.

(39) "Staple food items" means meat, poultry, fish, bread, breadstuff, cereals, vegetables, fruit, vegetable and fruit juices, and dairy products, excluding items such as coffee, tea, cocoa, carbonated and uncarbonated beverages, condiments, and spices.

(40) "State WIC agency" means the Cabinet for Health and Family Services or its designated representative.

(41) "Systematic review" means a review of electronic WIC transactions by the state WIC agency or its representatives to monitor systematic violations of the program.

(42) "Trafficking" means the redemption or exchange of WIC food instruments for cash, a firearm, ammunition, an explosive, or a controlled substance as defined in 21 U.S.C. 802.

(43) "Unauthorized food" means foods not authorized by the state or local agency for issuance to a particular participant.

(44) "Unique customer" means the number of unduplicated individuals that have one (1) or more transactions at the sanctioned vendor during the specified time period.

(45) "UPC" means a barcode consisting of twelve (12) digits used for tracking trade items in retail stores.

(46) "Urban" means a metropolitan area as defined by the U.S. Office of Management and Budget (OMB) Bulletin No. 13-01.

(47) "Vendor" means a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one (1) or more stores by providing authorized supplemental foods to participants under a retail food delivery system.

(48) "Vendor authorization" means the process by which the state WIC agency assesses, selects, and enters into an agreement or contract with a store that applies or subsequently re-applies to be authorized as a vendor.

(49) "Vendor overcharge" is defined by 7 C.F.R. 246.2.

(50) "Vendor violation" means an intentional or unintentional act of a vendor's current owner, officers, agent, or employee, with or without the knowledge of management, that violates the vendor agreement or KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18.

(51) "WIC agency" means a local health department or agency contracted with the state to deliver WIC services.

(52) "WIC benefits" means a voucher, check, electronic benefits transfer card (EBT), coupon, or document that is used by a participant to obtain supplemental foods.

(53) "WIC program" or "WIC" means the Special Supplemental Nutrition Program for Women, Infants, and Children authorized by Section 17 of the Child Nutrition Act of 1966, 42 U.S.C. 1786, and administered pursuant to 42 U.S.C. 1786 and 7 C.F.R. Part 246. (40 Ky.R. 493; 827; eff. 10-16-2013; Crt eff. 4-13-2020.)