

902 KAR 18:090. High Risk Criteria.

RELATES TO: KRS 194A.050, 194A.505, 194A.990, 205.231, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802

STATUTORY AUTHORITY: KRS 194A.050, 205.231, 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 the high risk criteria for contracted retailers with the Kentucky Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

Section 1. High Risk Criteria. In accordance with 7 C.F.R. 246.12, high-risk vendors shall be identified at least once each federal fiscal year. The criteria and points established in this section shall be assessed.

(1) A vendor with low variance, as defined by 902 KAR 18:011, Section 1, shall be assessed five (5) points per quarter.

(2) A vendor who has greater than or equal to twenty (20) percent but less than fifty (50) percent of the vendor's quarterly WIC transactions ending in whole dollar amounts shall be assessed five (5) points per quarter. The transactions shall not include produce and formula.

(3) A vendor who has greater than or equal to fifty (50) percent of the vendor's quarterly WIC transactions ending in whole dollar amounts shall be assessed ten (10) points per quarter. The transactions shall not include produce and formula.

(4) A vendor in which six (6) or more gallons of milk were redeemed in a single transaction, occurring in thirty (30) or more transactions a quarter, shall be assessed five (5) points per quarter.

(5) A vendor with full package redemptions in one (1) transaction occurring in twenty (20) or more transactions per quarter shall be assessed five (5) points per quarter.

(6) A vendor shall be assessed ten (10) points for every overcharge letter unless the overcharge is justified in writing and accepted by the state WIC agency.

(7) A vendor with a lack of inventory, as outlined in the Kentucky WIC Manual for Applying Retailers, incorporated by reference in 902 KAR 18:050, shall be assessed five (5) points per occurrence during a monitoring visit.

(8) A vendor whose prices for transactions are greater than or equal to ninety (90) percent above the NTE shall be assessed five (5) points per quarter.

(9) A vendor whose percentage of WIC sales to food sales is greater than twenty (20) percent shall be assessed five (5) points for every ten (10) percent increment per federal fiscal year.

(10) A vendor who has redeemed more than \$2,000 in transactions per federal fiscal year from out of its contracted agency shall receive one (1) point per federal fiscal year.

(11) A vendor who received a Good Letter with Exceptions shall be assessed five (5) points per letter.

Section 2. High Risk Referrals. A vendor who is assessed thirty (30) points or more per federal fiscal year shall be referred to a federal, state, or local law enforcement agency for a compliance investigation. (40 Ky.R. 509; 835; eff. 10-16-2013; Crt eff. 4-13-2020.)