

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Maternal and Child Health
(Amendment)

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

RELATES TO: KRS 194A.050, 194A.505, ~~241.010~~~~[194A.990]~~, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802

STATUTORY AUTHORITY: KRS 194A.050, ~~211.180~~~~[211.090(3)]~~, 7 C.F.R. Part 246, 42 U.S.C. 1786

CERTIFICATION STATEMENT:

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. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers, infants, and preschoolers, and the improvement of health through better nutrition. This administrative regulation establishes definitions for the terms used in 902 KAR Chapter 18.

Section 1. Definitions.

- (1) "Above-50-percent vendor" ~~is defined by 7 C.F.R. 246.2~~~~[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" ~~is defined by 7 C.F.R. 246.2~~~~[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" ~~is defined by 7 C.F.R. 246.2~~~~[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" ~~is defined by 7 C.F.R. 246.2.~~
- (12) Electronic Benefit Transfer" (EBT) is defined by 7 C.F.R. 246.2 ~~[means simultaneous participation in the WIC Program and in:]~~
 - ~~[(a)] [One (1) or more WIC clinics; or]~~
 - ~~[(b)] [The Commodity Supplemental Food Program].~~
- (13) ~~[(12)]~~ "Electronic WIC benefits" or "eWIC" means a ~~[Web-based]~~ technology that allows WIC participants to obtain food benefits by using a method that permits electronic access~~[plastic debit type card with a personal identification number (PIN)]~~ at authorized participating WIC vendors~~[retailers].~~
- (14) ~~[(13)]~~ "Exempt infant formula" is defined by 7 C.F.R. 246.2.
- (15) ~~[(14)]~~ "FNS" means Food and Nutrition Services.
- (16) ~~[(15)]~~ "Food instrument" is defined by 7 C.F.R. 246.2.
- (17) ~~[(16)]~~ "Good letter with exceptions" means a written notification letter that:

- (a) An investigation ~~[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.
- (18) ~~[(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.
- (19) ~~[(18)]~~ "Integrated" means a commercial system that fully incorporates eWIC functionality into an existing electronic cash register (ECR) system.
- (20) ~~[(19)]~~ "Inventory audit" is defined by 7 C.F.R. 246.2~~[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].~~
- (21) ~~[(20)]~~ "Investigation" means a method used by the state WIC agency to detect a WIC program violation.
- (22) ~~[(21)]~~ "Local agency" is defined by 7 C.F.R. 246.2~~[means an applying or participating WIC agency].~~
- (23) ~~[(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" is defined by 7 C.F.R. 246.2~~[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.
- (28) ~~[(29)]~~ "Point of sale" or "POS" means the combination of hardware and software that enables a vendor to accept payment for~~[the system supporting]~~ WIC~~[eWIC]~~ food transactions~~[in a store checkout lane].~~
- (29) ~~[(30)]~~ "POS device" means a ~~[physical electronic cash register or]~~ dedicated point of sale ~~[hardware or]~~ terminal that is used for eWIC food transactions~~[WIC processing].~~
- (30) ~~[(31)]~~ "Positive buy" means a compliance buy, onsite review, or online~~[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.
- (31) ~~[(32)]~~ "Price look up" or "PLU" means a four (4) or five (5) digit identifier used to identify individual and bulk produce.

(32) ~~[(33)]~~ "Proxy" is defined by 7 C.F.R. 246.2~~[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].~~

(33) ~~[(34)]~~ "Routine monitoring" is defined by 7 C.F.R. 246.2~~[means overt, on-site monitoring during which representatives of the WIC program identify themselves to vendor personnel].~~

(34) ~~[(35)]~~ "Rural" means any area not defined as urban.

(35) ~~[(36)]~~ "Shelf price" means the price displayed on the food item, shelf, or display case where the food item is available for purchase~~[stored].~~

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

(37) ~~[(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.

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

(39) ~~[(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.

(40) ~~[(42)]~~ "Trafficking" means the redemption or exchange of WIC food instruments for cash, firearms, ammunition, explosives, or controlled substances as defined by 21 U.S.C. 802(6)~~[a firearm, ammunition, an explosive, or a controlled substance as defined in 21 U.S.C. 802].~~

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

(42) ~~[(44)]~~ "Unique customer" means the number of unduplicated WIC households~~[individuals]~~ that have one (1) or more transactions at a specific authorized WIC~~[the sanctioned]~~ vendor during a ~~the~~ specified time period.

(43) ~~[(45)]~~ "UPC" or "Universal product code" means a unique barcode consisting of numerical~~[(twelve (12))]~~ digits used for tracking inventory~~[trade items]~~ in retail stores.

(44) ~~[(46)]~~ "Urban" means a metropolitan area as defined by the U.S. Office of Management and Budget (OMB) Bulletin No. 23-01~~[(13-01)]~~.

(45) ~~[(47)]~~ "Vendor" is defined by 7 C.F.R. 246.2~~[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].~~

(46) ~~[(48)]~~ "Vendor authorization" is defined by 7 C.F.R. 246.2~~[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 reapplies to be authorized as a vendor].~~

(47) ~~[(49)]~~ "Vendor overcharge" is defined by 7 C.F.R. 246.2.

(48) "Vendor peer group system" is defined by 7 C.F.R. 246.2.

(49) ~~[(50)]~~ "Vendor violation" is defined by 7 C.F.R. 246.2~~[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].~~

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

~~(51)~~ ~~((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.

~~(52)~~ "WIC-eligible nutritionals" is defined by 7 C.F.R. 246.2.

(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.

~~(54)~~ "Written communication" means a letter or email correspondence that can be retrieved and tracked for timeline compliance.

JOHN R. LANGEFELD, MD, Commissioner
STEVEN J. STACK, MD, MBA, Secretary

APPROVED BY AGENCY: January 7, 2026

FILED WITH LRC: February 3, 2026 at 11:50 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 27, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by April 20, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through April 30, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks and Krista Quarles

Subject Headings: Children and Minors; Public Assistance; Public Health

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation contains the definitions for the terms used in 902 KAR Chapter 18.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to ensure a consistent understanding of the terms used throughout the 902 KAR Chapter 18 administrative regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

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. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers and infants, and the improvement of health through better nutrition.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation ensures all local programs, vendors, and WIC recipients have a consistent understanding of the terms used throughout the 902 KAR Chapter 18 administrative regulations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment to this administrative regulation updates the defined terms for clarity.

(b) The necessity of the amendment to this administrative regulation:

The amendment to this administrative regulation is necessary to update defined terms to conform to federal standards.

(c) How the amendment conforms to the content of the authorizing statutes:

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. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers and infants, and the improvement of health through better nutrition.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment to this administrative regulation will ensure local program staff, vendors, and WIC recipients have a consistent understanding of the terms used in 902 KAR Chapter 18 administrative regulations.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Local agencies for WIC include sixty-one (61) county and district health departments and three (3) pediatric medical centers. There are currently 552 vendors for WIC services. The WIC program supports an average of 107,000 participants per month.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:

Local programs, vendors, and WIC recipients will need to be aware of the updated terms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

There will be no cost for local programs, vendors, or WIC recipients.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

Vendors and participants will have a shared understanding of the requirements for the WIC program.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

This is an ongoing program, there are no initial costs.

(b) On a continuing basis:

According to the U.S. Department of Agriculture, the WIC program receives federal grant funding of approximately \$112 million dollars to administer the program.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

The WIC program is funded through a grant from the U.S. Department of Agriculture.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

An increase in fees or funding is not necessary to implement this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

There are no fees associated with this administrative regulation.

(10) TIERING: Is tiering applied?

Tiering is not applied. The defined terms are equally applicable to local programs, vendors, and WIC recipients.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 194A.050, 211.180, 7 C.F.R. Part 246, and 42 U.S.C. 1786.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) in the Department for Public Health, Cabinet for Health and Family Services is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures:This administrative regulation does not impact expenditures for the promulgating agency.

Revenues:The WIC program receives approximately \$112 million dollars in grant funding from the U.S. Department of Agriculture (USDA).

Cost Savings:This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The funding from USDA to support the WIC program is dependent on federal monies available.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

Local health departments that operate a WIC program are affected local entities.

(a) Estimate the following for the first year:

Expenditures:The amendment to this administrative regulation will not impact expenditures for the identified affected local entities.

Revenues:The state program provides funding from the grant dollars received to support the local agencies who implement WIC.

Cost Savings:This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Subsequent year expenditures, revenues and cost savings will be dependent on the amount of federal funding received from the USDA.

(4) Identify additional regulated entities not listed in questions (2) or (3):

Additional regulated entities include WIC recipients.

(a) Estimate the following for the first year:

Expenditures:This administrative regulation will not impact expenditures for WIC recipients as services and resources are provided at no cost to recipients.

Revenues:This administrative regulation will not generate revenue for WIC recipients.

Cost Savings:WIC recipients have cost savings associated with receiving resources to purchase food items. This is dependent on the individual's eligibility.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Expenditures and revenue will not change in subsequent years. Cost savings will remain dependent on the individual's eligibility to purchase food items.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

This administrative regulation has no fiscal impact.

(b) Methodology and resources used to determine the fiscal impact:

This administrative regulation is definitions only. It does not generate revenue or impact costs in any way.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

This administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion:

This administrative regulation is definitions only. It does not generate revenue or impact costs in any way. Therefore, it does not have a major economic impact.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

7 C.F.R. 246 and 42 U.S.C. 1786.

(2) State compliance standards.

KRS 194A.050 requires the secretary of the Cabinet for Health and Family Services to promulgate and enforce administrative regulations necessary to implement programs mandated by federal law or to qualify for federal funds.

(3) Minimum or uniform standards contained in the federal mandate.

7 C.F.R. 246 provides grant funding to states agencies to administer the Special Supplemental Nutrition Program for Women, Infants and Children through local agencies at no cost to eligible recipients. 7 C.F.R. 246.3(b) delegates authority for the effective and efficient administration of the program to states. 42 U.S.C. 1786 requires states to submit a plan for operation and administration each fiscal year.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

No, this administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

Not applicable.