

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

902 KAR 18:050. Vendor authorization criteria.

RELATES TO: KRS Chapter 13B, 194A.050, 194A.505, 194A.990, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802.

STATUTORY AUTHORITY: KRS 194A.050, 211.180~~[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 the vendor authorization criteria for the Kentucky Special Supplemental Nutrition Program for Women, Infants~~;~~ and Children (WIC).

Section 1. Vendor Authorization Criteria.

- (1) Only a vendor authorized by the state WIC agency shall redeem a food instrument.
- (2) Each store operated by a business entity shall be authorized separately from other stores operated by the business entity.
- (3) Each store shall have a single, fixed location and redeem the WIC food instruments and provide the WIC foods within the four (4) walls of the establishment.
- (4) A vendor~~retailer~~ authorized as a pharmacy shall only redeem food instruments for exempt infant formulas and WIC-eligible nutritional~~medical foods~~.
- (5) ~~Food~~ Vendors shall be authorized in sufficient numbers and with distribution adequate to ensure:
 - (a) Participant convenience and access; and
 - (b) Effective management of vendor review by the cabinet ~~and the local agency~~.
- (6) In order to be an authorized WIC vendor, a vendor shall:
 - (a) Complete the application process, meet authorization criteria, and be approved by the WIC state agency ~~in accordance with the Kentucky WIC Manual for Applying Retailers~~;
 - (b) Provide business information ~~required by the WIC Manual, including sales volume and an updated application,~~ requested by the state WIC agency;
 - (c) Stock, at all times, minimum inventory in accordance with the ~~Quantified~~ Minimum Stock~~Inventory~~ Requirements outlined in the Kentucky WIC Vendor Agreement~~Manual for Applying Retailers~~:
 1. ~~The stock shall be in the store or in the store's stockroom;~~
 - ~~2.~~ Expired foods shall not count towards meeting the minimum stock~~inventory~~ requirement; and
 2. ~~3.~~ A pharmacy shall supply exempt formula or WIC-eligible nutritional~~medical foods~~ within forty-eight (48) hours of ~~the state WIC agency~~ request;
 - (d) Obtain infant formula only from the listing of Kentucky WIC~~Program~~ Authorized Formula Suppliers ~~of WIC Approved Infant Formulas,~~ <http://chfs.ky.gov/dph/mch/Vendor+Management.htm>;

- (e) Except for a pharmacy, be in compliance with the Kentucky Food Code, 902 KAR 45:005, and have a valid retail food establishment or retail food store permit in the current owner's name;
- (f) Except for a pharmacy, be an authorized SNAP retailer;
- (g) Have competitive prices with other authorized WIC vendors in the area~~;~~
~~[compared according to the policy outlined in the WIC Manual for Applying Retailers and the Manual for Contracted WIC Vendors];~~
- (h) Post the current ~~[Display the]~~ prices of WIC approved foods~~[food items]~~ on each individual product~~[item]~~ or on the shelf directly in front of the product, or on the refrigerated display case where the items are located. A cost plus ten (10) percent store shall post the final price on the individual product~~[(WIC price)]~~ on the shelf, or on the refrigerated display case where the items are located~~[signage in aisle];~~
- (i) Be in compliance with the other Food and Nutrition Service programs or the Medicaid program, including:
1. Not be disqualified or withdrawn by the United States Department of Agriculture from participation in another Food Nutrition Service program or the Medicaid program;
 2. Not be denied application to participate in SNAP or Medicaid;
 3. Not be currently paying a civil money penalty to SNAP or Medicaid; or
 4. Not have been assessed a civil money penalty by SNAP or Medicaid, and the disqualification period that would otherwise have been imposed has not expired;
- (j) Request authorization for a business whose primary purpose is to be a retail grocery:~~;~~
1. Except for a pharmacy, a direct distribution outlet or wholesale food establishment shall not be eligible.
 2. A vendor who derives more than fifty (50) percent of annual food sales revenue from the sale of food items that are purchased with WIC food instruments shall not be eligible.
 3. A retail grocery shall:
 - a. Have a separate and distinct grocery department in a stationary location which stocks staple food items in addition to WIC approved foods; and
 - b. Have fifteen (15) percent of gross sales in nontaxable food sales~~;~~
~~[excluding specialty items such as bakery goods for a bakery or produce for a fruit and vegetable stand.]~~
 - ~~[4.] [A dairy or home delivery grocery shall not be approved if it operates solely as a mobile operation.]~~
 - ~~[5.] [The use of drive-up windows shall not be approved];~~
- (k) Be registered with the Secretary of State and be in good standing, if a corporation or partnership;
- (l) Except for a farmers' market, be open for business year round at least eight (8) hours per day, six (6) days per week;
- (m) Be accessible to monitoring by state and federal officials without prior notice;
- (n) Not be indebted to the WIC program for an unpaid claim or a civil money penalty against a store owned or previously owned by the applying owners; and
- (o) Have the capability to accept WIC program benefits electronically. A store shall have the use of an internet cable or a currently Food and Nutrition Services certified system to accept online WIC EBT.
- (7) The WIC program shall not authorize a vendor applicant if, during the last six (6) years, an applicant current owner, officer, or manager has been convicted of or had a civil judgment for:
- (a) Fraud;
 - (b) Antitrust violation;

- (c) Embezzlement, theft, or forgery;
 - (d) Bribery;
 - (e) Falsification or destruction of records;
 - (f) Making false statements or claims;
 - (g) Receiving stolen property;
 - (h) Obstruction of justice; or
 - (i) Another act reflecting on the business integrity and reputation of the applicant, such as removal from other federal or state programs.
- (8) The WIC program shall not authorize a store that has attempted to circumvent a period of disqualification from the program, including a store that has undergone a sale or changes of operation if the transaction involved the following parties:
- (a) The seller or transferor is an owner, operator, or manager currently suspended, sanctioned, has outstanding monetary claims, or disqualified from WIC, SNAP, or Medicaid; and
 - (b) The buyer or transferee is related to the seller by marriage or consanguinity within the fourth degree, or was a manager or employee of the seller when the sanction, suspension, outstanding monetary claim, or disqualification was issued or the violation occurred.
- (9) A contract shall not be entered into with a vendor if the contract would cause a conflict of interest, real or apparent.
- (10) The WIC program shall terminate a vendor contract if it determines the vendor or vendor's employee provided false information in connection with the vendor application.
- (11) An authorized WIC vendor shall send appropriate employees (owner, manager or head cashier) to attend state WIC agency required training.
- (12) If an applying ~~vendor~~retailer does not meet the criteria upon review by ~~the~~either the local or state WIC agency:
- (a) The applying ~~vendor~~retailer shall be notified in writing;
 - (b) After two (2) reviews, the applying ~~vendor~~retailer shall not apply for the program for sixty (60) days from the date of denial;
 - (c) After three (3) reviews, the applying ~~vendor~~retailer shall not apply for 120 days from the date of the denial;
 - (d) Each subsequent denial shall result in an additional sixty (60) day waiting period~~[denial]~~.
- (13) A person aggrieved by a decision of the cabinet may file a written request for a hearing with the cabinet within fifteen (15) days after receipt of notice of the adverse action. The hearing shall be conducted in accordance with KRS Chapter 13B.

~~[Section 2.] [Procedures for Authorized Vendors. Authorized vendors shall comply with the Manual for Contracted WIC Vendors.]~~

~~[Section 3.] [Incorporation by Reference.]~~

~~[(1)] [The following material is incorporated by reference:]~~

~~[(a)] ["Kentucky WIC Manual for Applying Retailers", October 2013; and]~~

~~[(b)] ["Manual for Contracted WIC Vendors", October 2013.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

JOHN R. LANGEFELD, MD, Commissioner
STEPHEN J. STACK, M.D., MBA, Secretary

APPROVED BY AGENCY: September 16, 2025
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: Local Health Departments, Public Health, Retail and Sales

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the vendor authorization criteria for the Kentucky Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to ensure a sufficient number of WIC vendors are approved and available to fulfill the needs of WIC participants in their community.

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

7 C.F.R. 246.12(g) authorizes the cabinet to develop and implement vendor authorization procedures. KRS 194A.050 requires the cabinet to promulgate administrative regulations and carry out programs mandated by federal law for the receipt of federal funds.

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

This administrative regulation ensures all vendors are aware of the requirements to be authorized to participate in the WIC program.

(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 vendor participation requirements, revises the price display criteria, clarifies which requirements are not applicable to a participating pharmacy, and adds outstanding monetary claims to the list of reasons a vendor application may not be approved. The vendor manuals previously incorporated by reference are being removed as these materials are outdated and no longer used by the WIC program.

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

The amendment to this administrative regulation is necessary to comply with federal regulation.

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

7 C.F.R. 246.12(g) authorizes states to develop and implement vendor authorization procedures. KRS 194A.050 requires the cabinet to promulgate administrative regulations and carry out programs mandated by federal law for the receipt of federal funds.

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

The amendment to this administrative regulation will ensure vendors are aware of the most current requirements for participating in the WIC program.

(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:

There are currently 552 authorized WIC vendors. An average of ten (10) new WIC vendor applications are received each year.

(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:

Current vendors will need to be aware of the participation requirements and make any necessary changes to business practices to comply. Future WIC vendors will need to be aware of the application requirements.

(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 costs for compliance.

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

Vendors will be able to provide nutritious foods to families participating in 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:

There will be no increase in cost to the state WIC program to implement the amendment to this administrative regulation.

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

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

(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 the amendment to 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 established in this administrative regulation.

(10) TIERING: Is tiering applied?

Tiering is not applied as all vendors or potential vendors shall meet the established participation requirements.

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 expenditure 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 local agencies who implement WIC.

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 authorized WIC vendors and potential vendors.

(a) Estimate the following for the first year:

Expenditures:This administrative regulation may result in minimal expenditures for authorized WIC vendors who may need to update the price display.

Revenues:Participating as a WIC vendor is budget neutral for vendors.

Cost Savings:This administrative regulation will not result in cost savings for authorized WIC vendors.

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

Updates to price display is a one-time expense for WIC vendors. Expenditures, revenue, and cost savings will not change in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

This administrative regulation will have a budget neutral fiscal impact. This administrative regulation will not generate revenue for the promulgating agency or other impacted entities. Expenditures will not be increased or decreased as a result of this administrative regulation and there will be no costs savings.

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

The amendment to this administrative regulation updates the application process for vendors to comply with federal regulation.

(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 does not have an overall negative or adverse major economic impact.

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

This administrative regulation is budget neutral.

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. 246.12(g) requires states to develop and implement criteria to select stores for authorization. 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.