

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

902 KAR 18:061. Vendor violations and sanctions.

RELATES TO: 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~~s~~ 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 violations and sanctions for the Kentucky Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

Section 1. Vendor Violations and Sanctions.

(1) In addition to any criminal penalty imposed pursuant to KRS 194A.990, the cabinet shall impose one (1) or more of the following civil sanctions for designated violations committed by a vendor, his or her employee, or agent:

(a) Failure of a vendor to meet the authorization criteria in 902 KAR 18:050:

1. First occurrence: a sixty (60) day disqualification or non-renewal;
2. Second occurrence: a ninety (90) day disqualification or non-renewal; or
3. Third and subsequent occurrences: a 120 day disqualification or non-renewal;

(b) Failure of a vendor to pay a claim. The state WIC agency shall request payment as follows:

1. Written communication ~~[Mail a letter]~~ to the vendor requesting payment by a specified date;
2. If payment is not received by the specified date, the state WIC agency shall contact the vendor by either email or telephone, reminding vendor of payment due;
3. If payment is not received within fifteen (15) days of the specified date, the state WIC agency shall send a second letter by certified mail, return receipt requested, of past due claim; and
4. If payment is not received by the deadline specified in the second letter, then the following disqualification shall be issued:
 - a. First occurrence: a six (6) month disqualification; or
 - b. Second occurrence and subsequent occurrences: a one (1) year disqualification from the WIC program;

(c) Failure of a vendor to return the POS device~~[WIC vendor authorization stamp and XAC device]~~ (if applicable). The state WIC agency shall request return~~[receipt]~~ of the POS~~[stamp and XAC]~~ device (if applicable) as follows:

1. Written communication ~~[Mail a certified letter]~~ to the vendor requesting return of the POS~~[vendor stamp and XAC]~~ device (if applicable) within seven (7) days of disqualification or termination;
2. If the POS~~[vendor stamp and XAC]~~ device (if applicable) ~~is/are~~ not received, the state WIC agency shall contact the vendor by either email or telephone, reminding

the vendor ~~that the POS device (if applicable) is~~ ~~[of the vendor stamp and XAC device (if applicable) being]~~ due; and

3. If the ~~POS device (if applicable) is~~ ~~[stamp and XAC device (if applicable) are]~~ not returned within seven (7) days of the effective date of termination or disqualification, then an additional six (6) month disqualification shall be issued;

(d) Store personnel requesting the PIN: two (2) positive buys out of three (3) shall result in a one (1) year disqualification;

(e) Using the integrated or WIC ~~POS~~~~[XAC]~~ device Cash Value Benefits (CVB) functionality to provide non-produce food item(s): two (2) positive buys out of three (3) shall result in a one (1) year disqualification from the WIC program;

(f) Providing free merchandise exclusively to WIC participants as an incentive to redeem WIC benefits: one (1) positive buy out of three (3) shall result in a six (6) month disqualification;

(g) Public notice by a WIC vendor of providing free merchandise exclusively to participants as an incentive to redeem WIC benefits: one (1) occurrence shall result in a six (6) month disqualification;

(h) Conviction of trafficking in WIC benefits or selling a firearm, ammunition, an explosive, or controlled substance, as defined in 21 U.S.C. 802, in exchange for a food instrument: one (1) positive buy shall result in a permanent disqualification;

(i) Trafficking in WIC benefits or selling a firearm, ammunition, an explosive, or controlled substance, as defined in 21 U.S.C. 802, in exchange for a food instrument: one (1) positive buy shall result in a six (6) year disqualification;

(j) Sale of alcohol or alcoholic beverage or tobacco product in exchange for a food instrument: one (1) positive buy shall result in a three (3) year disqualification;

(k) Claiming reimbursement for the sale of an amount of a specific supplemental food item, ~~that~~~~[which]~~ exceeds the vendor's documented inventory of that supplemental food item for a specific period of time:

1. An inventory audit for a thirty (30) day period, ~~that~~~~[which]~~ results in more WIC sales than the documented inventory, shall result in a three (3) year disqualification;
~~or~~

2. An inventory audit for a ninety (90) day period, ~~that~~~~[which]~~ results in more WIC sales than the documented inventory, shall result in a three (3) year disqualification;
or

3. An inventory audit for a 180-day period, that results in more WIC sales than the documented inventory, shall result in a three (3) year disqualification;

(l) Charging a participant more for supplemental food than a non-WIC customer is charged or the current shelf price:

1. Two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification if:

a. The vendor has exhibited a prior pattern of overcharging based upon routine monitoring visits which have resulted in two (2) letters for price discrepancies; or

b. The vendor has exhibited a pattern of two (2) out of four (4) quarters of low variance in the prior federal fiscal year;

2. The state WIC agency shall:

a. Require a vendor who has received two (2) letters for price discrepancies during the federal fiscal year to receive training provided by the state WIC agency; and

b. Notify a vendor who exhibits a pattern of low variance for two (2) or more quarters during the federal fiscal year; and

3. Three (3) positive compliance buys out of three (3) shall result in a three (3) year disqualification for a vendor who does not meet the conditions in subparagraph 1. of this paragraph;

- (m) Receiving, transacting, or redeeming food instruments outside of authorized channels, including the use of an unauthorized vendor or unauthorized person: two (2) positive buys out of three (3) shall result in a three (3) year disqualification;
 - (n) Charging for supplemental food not received by the participant, such as charging for one (1) food item or more listed on the WIC benefits but not purchased by the WIC participant: three (3) positive buys out of three (3) shall result in a three (3) year disqualification;
 - (o) Providing credit, an IOU, a rain check, a due bill, or a store credit, or providing a nonfood item other than cash, alcohol, tobacco, firearms, ammunition, explosives or controlled substances, as defined in 21 U.S.C. 802, in exchange for a food instrument~~[benefits]~~ shall result in the following disqualification: two (2) positive buys out of three (3) shall result in a three (3) year disqualification;
 - (p) Providing an unauthorized food item or items in exchange for a food instrument: three (3) positive buys out of four (4) shall result in a one (1) year disqualification;
 - (q) Charging for supplemental food provided in excess of those listed on the food instrument: three (3) positive buys out of four (4) shall result in a one (1) year disqualification;
 - (r) A vendor who has been disqualified from the SNAP shall be disqualified from the WIC program for the same length of time as the SNAP disqualification; or
 - (s) A vendor who has been assessed a civil money penalty by SNAP, as provided under 7 C.F.R. 278.6, shall be disqualified from the WIC program for the same length of time for which the vendor would have been disqualified from SNAP unless the WIC program determines that disqualification would result in inadequate participant access, in which case a penalty shall not be assessed.
- (2) If multiple vendor violations are found during an investigation, the length of the disqualification shall be determined by the most serious violation.
- (3) A vendor who has previously received two (2) or more of the mandatory sanctions designated in subsection (1)(h) through (q) of this section, and who receives another sanction for a violation designated in subsection (1)(h) through (q) of this section, shall have the third and all subsequent sanctions be doubled. A civil monetary penalty shall not be assessed for a third or subsequent sanction.
- (4) Disqualified vendors, even if the decision is later overturned, shall not be entitled to receive compensation for revenues lost as a result of a disqualification.

Section 2. Vendor Notification

- (1) Except for violations identified in Section 1(1)(a) through (c), (f) through (j), (r), and (s) of this administrative regulation, the state WIC agency shall notify a vendor in writing if an investigation reveals a potential initial violation.
- (2) The vendor shall be notified before another violation is documented unless the state WIC agency determines that notifying the vendor would compromise the investigation.
 - (a) The notification determination shall be made on a case by case basis.
 - (b) A notification of a potential initial violation shall not be issued if:
 - 1. The vendor is identified as a high-risk vendor in accordance with 902 KAR 18:090;
 - 2. One (1) or more of the same type of violation occurred within the same federal fiscal year or prior federal fiscal year and the vendor has received prior notification; and
 - 3. Sending a notification letter would divulge the identity of the investigator.

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, Penalties, Public Health

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the vendor violations and sanctions 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 all vendors operate in full compliance with state and federal laws and regulations.

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

7 C.F.R. 246.4(a)(14)(iv) authorizes states to have a system in place to monitor vendors to prevent fraud, waste, and program noncompliance. KRS 194A.050 authorizes the cabinet to implement programs required by federal law.

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

This administrative regulation ensures vendors are aware of potential sanctions and enforcement actions for program noncompliance.

(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 device title to current language, adds a fifteen (15) day timeline for follow-up when a vendor fails to repay a claim, and adds a 180-day inventory audit to the list of sanctions when sales exceed listed inventory.

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

The amendment to this administrative regulation is necessary to ensure vendors are aware of possible sanctions for violations of applicable state and federal laws and regulations.

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

7 C.F.R. 246.12(1) lists mandatory vendor sanctions for violations of state and federal laws and regulations. KRS 194A.050 authorizes the cabinet to implement programs required by federal law.

(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 all possible sanctions and take the steps necessary to prevent fraud, waste, and program noncompliance.

(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 vendors enrolled in the WIC program. The state agency receives approximately ten (10) new vendor applications 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:

Vendors will need to be aware of the rules of participation and take the necessary steps to comply with those rules.

(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 minimal costs to vendors to comply with this administrative regulation.

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

Vendors who comply with the rules of participation will remain in good standing with the WIC state agency.

(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 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?

(Explain why or why not) Tiering is not applied as all vendors are subject to the same sanctions for violation.

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 violate state and federal laws and regulations.

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?

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 possible sanctions for vendors who violate state or federal laws and regulations.

(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. 246.4(a)(14)(iv) requires states to have a system to monitor vendors for compliance and to prevent fraud, waste, and program noncompliance. 7 C.F.R. 246.12(l) requires states to implement mandatory vendor sanctions. 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.