

Section III: State Agency Procedure Manual

I. State Vendor and Farmer Management

G. Compliance Investigations

Purpose

Program compliance is mandatory to operate an efficient and effective program.

Policy

1. A minimum of five (5) percent of all WIC authorized retailers will receive a compliance investigation annually. High-risk criteria will be applied uniformly to all retailers, and at least the top 5 percent of the retailers deemed to be high risk will be selected for a compliance investigation.

High Risk Criteria

- State WIC Staff may utilize but are not limited to the following criteria to determine High Risk Vendors:
 - Statistical analyses, including but not limited to Low Variance in Price and High Average Price compared to Maximum Allowable Reimbursement (MAR)
 - New Vendors
 - Participants/staff complaints and/or observations
 - Vendor history of program violations and/or non-compliance
 - Vendors using stand beside devices
 - Previous WIC or SNAP suspension
 - STAR determination of High Risk
 - Large number of keyed entries

2. Compliance Investigations

- Compliance investigations shall be accomplished by conducting either a compliance purchase or inventory audit at the Program's discretion.
- A compliance purchase is defined as a covert purchase made using an eWIC card by WIC staff, or their contracted designee. The purchase is made without notifying the retailer's management or staff.
- Pre-purchase Procedure:
 - Prior to the store visit, the compliance investigator may review the retailer's file to learn if the retailer has a history of non-compliance or stocking exemptions.
 - State WIC staff will use the MIS to issue benefits on an eWIC card using the compliance buy function in the MIS.
 - State WIC staff will manage the compliance buy eWIC cards, and will distribute them to contractors and staff as needed.
 - Any staff or contractor who will complete a compliance investigation, training and education will be provided and will include (but is not limited to) the following topics:
 - Steps in the compliance buy process.

- Process for completing the Compliance Buy Report.
- Reminder not to invoke sympathy or try in any way to convince or coerce the cashier to allow any possible non-authorized foods to be purchased.
- Circumstances when to leave the store immediately.
- Which WIC foods to purchase, and the procedures for using an eWIC benefit.

3. Compliance Buy Process:

- There will always be at least two compliance purchases made at each retailer to establish a pattern of compliance or non-compliance. These purchases can occur on the same day but ideally, are spread out when possible.
- The investigator will complete and document the following during a compliance purchase:
 - Note the time you enter the store.
 - Verify self-price tags.
 - Select the food items to purchase and make note of their posted shelf price.
 - Note the general description of the cashier.
 - Check for the following occurrences:
 - Cashier providing beginning balance receipt, purchase receipt, and remaining balance receipt from the point of sale.
 - Charging more than the posted shelf price.
 - Charging for foods not received.
 - Providing credit or non-food items in an eWIC transaction.
 - Providing an unauthorized food item, including charging for food provided in excess of those allowed by the eWIC card.
 - Giving change or requiring cash to be paid in full or in part.
 - Charging investigator more for WIC-approved foods than a non-WIC customer.
 - The investigator will tell the cashier before the items are rung up that he/she will be using an eWIC card.
 - At the second compliance purchase, if possible, a different cashier should be used for checkout.
 - Once the purchase is complete the investigator will leave the store with all the receipts (beginning balance, confirmation, and ending balance) and the items purchased, and complete the appropriate documentation on the compliance buy report.
 - If a violation occurred during the first purchase, the investigator must not proceed with the second purchase.
 - The investigator will return the report and store receipts to the State Agency.
 - Finally, the investigator will donate all the food items to a food bank or similar organization.
 - A donation form, which is filed with the final report, will be signed by the staff at the organization acknowledging the donation.
 - Once the compliance investigation is completed the State Agency will send a letter to the retailer describing the results of the investigation. Follow up training and education will be

offered as needed. The retailer will be informed of possible sanctions being assigned if a pattern of violations occurred.

- Outcomes of Compliance Purchases
 - A successful transaction is one in which no violations occur, and no adverse action is applied.
 - A failed transaction is one in which the retailer does commit a violation.
 - Two or more independently documented violations of the same type within the last 12 months constitutes a pattern and that will result in sanctions being imposed.
 - If there is one failed and one successful transaction, an additional compliance purchase will have to be made to determine if there have been two failed or two successful transactions.
 - In the instance of a failed compliance purchase due to violations that are not yet sanctionable, retailers should be given at least 30 days from notification prior to an additional compliance purchase to allow for training.
- Follow-up procedures if “No Adverse Action” is applied:
 - The State Agency will review the benefit transaction in SOAR after redemption. A case file will be completed on the investigation by the State Agency. This may include:
 - Any reports or complaints that were used to select the retailer for a compliance purchase; the investigation report; any receipts from the transaction; any document of prior warnings or retailer visits; the letter sent to the retailer notifying the retailer of the compliance purchases; any correspondence from the retailer regarding the case, including documentation of phone contact; any materials relating to a Administrative Review if one is requested, including the decision of the hearing office.
 - The retailer will be notified by mail of the results of the compliance investigation within 45 days of the initial compliance purchase. If the retailer is under further investigation a letter will not be sent.
 - The Local Agency will receive a copy of the letter.

4. Inventory Audit

- An inventory audit is defined as the comparison of reported WIC purchases against the retailer’s inventory records for a specific period.
 - Inventory audits will not be announced in advance. The local agency will not be informed of inventory audits conducted in their area.
- The WIC Retailer Agreement, in Section VI: Accounting, Auditing, Record Retention, Cost Principles and Access to Records, required retailers to maintain inventory records and other records related to purchases for a minimum three-year period.
- Procedure
 - A WIC staff member or a designated representative will visit the retailer to determine the total amount of stock available. This includes what is on the shelves as well as in the storage area. This must occur on the first day of the inventory period.
 - On the last day of the inventory period, a WIC staff member or a designated representative will visit the retailer to calculate the total amount of stock available.

- A WIC staff member or a designated representative will visit the retailer's offices. A request to view the invoice receipts will be made at that time. A calculation based on the beginning stock, the ending stock, and the amount of stock purchased according to the Invoice receipts will be compared to redemption records to verify the amount of stock presumed sold in WIC purchases.

5. Follow-up Actions

- Follow-up Action to either compliance buys, or an inventory audit, will include:
 - The retailer will be notified, by certified mail, of the investigation, violations found and the subsequent consequences, if applicable. A copy will be sent to the local agency.
 - The retailer can appeal any sanction or disqualification. Retailers must request an Administrative Review from the Montana WIC Program.
 - The Montana WIC Program will notify the Regional FNS Office of any WIC retailer disqualification. If the retailer involved is part of a "chain", the chain's regional/district manager will be notified.
 - Disqualification from the Montana WIC Program may result in disqualification from SNAP.