

Regulation 61-94

WIC Vendors

Disclaimer

DHEC provides this copy of the regulation for the convenience of the public and makes every effort to ensure its accuracy. However, this is an unofficial version of the regulation. The regulation's most recent final publication in the *South Carolina State Register* presents the official, legal version of the regulation.

Statutory Authority:

S.C. Code Section 43-5-930

Regulation History as Published in State Register			
Date	Document Number	Volume	Issue
March 27, 1987	528	11	3
May 24, 1991	1236	15	5
October 27, 2000	2540	24	10
May 26, 2017	4671	41	5
May 26, 2023	5120	47	5

Table of Contents

SECTION 101. Definitions.....	1
SECTION 201. Approval of Vendors.....	1
SECTION 301. Processing EBT/eWIC Transactions.....	3
SECTION 401. Vendor eWIC Settlement Payments.....	4
SECTION 501. Monitoring of Vendors.....	5
SECTION 601. Disqualifications and Sanctions.....	5
SECTION 701. Program Violations.....	6
SECTION 801. Administrative Appeals.....	8

SECTION 101. Definitions.

As used in this regulation, the following terms shall have the meaning specified:

- (A) DHEC or Department. The South Carolina Department of Health and Environmental Control.
- (B) WIC Program. The Special Supplemental Nutrition Program for Women, Infants and Children.
- (C) State WIC Program (“Program”). The Division of WIC Services in the Bureau of Community Nutritional Services, South Carolina Department of Health and Environmental Control.
- (D) Electronic WIC Card (eWIC Card). A magnetic stripe card used to purchase WIC-authorized foods or formulas from a WIC family’s eWIC account.
- (E) WIC Vendor (“Vendor”). Any store, pharmacy, or commissary approved for participation which has a valid, current WIC Vendor Agreement on file at the State WIC Program Office and continues to meet the minimum criteria for participation as listed in the agreement.

SECTION 201. Approval of Vendors.

- (A) Only vendors authorized by the Department may redeem electronic WIC benefits or otherwise provide supplemental foods to participants.
- (B) To be authorized for participation as a WIC Vendor, a vendor must:
 - 1. Request, in writing, by phone, or by email a WIC Vendor application packet.
 - 2. Submit a completed application packet to the State WIC Program Office, including the WIC Vendor Application, WIC Price Survey, Vendor Agreement, and an IRS W-9, Request for Taxpayer Identification and Certification form.
 - 3. Be authorized to participate in the Supplemental Nutrition Assistance Program (SNAP). (Pharmacies are exempt from this requirement.)
 - 4. Not be employed by the WIC program nor have a spouse, child, parent, or sibling who is employed by the WIC program serving the county in which the vendor applicant conducts business. The vendor applicant also shall not have an employee who handles, or transacts eWIC who is employed by, or has a spouse, child, or parent who is employed by the WIC Program serving the county in which the vendor applicant conducts business.
 - 5. Pass a pre-approval visit completed by the State WIC Program Office.
 - 6. Inform and train cashiers and other staff on program requirements.
 - 7. Ensure employees receive instruction regarding the WIC Program policies, procedures, and requirements.
 - 8. Maintain the minimum stock of WIC foods as required by the Vendor Agreement. (Pharmacies are exempt from this requirement.)

9. Comply with at least one established definition for store type within the four (4) Regions. Store Type 1 - Total Food Sales > \$10,000,000; Store Type 2 - Total Food Sales of \$10,000,000-\$5,000,000; Store Type 3 - Total Food Sales < \$5,000,000; Store Type 4 - Government-owned facilities (Commissaries), and Store Type 5 - Pharmacy.

10. Operate the store at a single, fixed location (no mobile/home delivery stores).

11. Purchase infant formula only from a state-approved wholesaler, distributor, or supplier.

12. Be located in South Carolina.

13. Must be open for business at least six (6) days a week for a minimum of eight (8) consecutive hours a day between the hours of 8 a.m. - 10 p.m.

14. Have no convictions or civil judgments within the last six (6) years that indicate a lack of business integrity on the part of the current owners, officers, or managers. Such activities include, but are not limited to: fraud, antitrust, violations, embezzlement, theft, forgery, bribery, falsification of records, making false statements, receiving stolen property, making false claims, or obstruction of justice.

15. Provide to WIC participants only those foods authorized by the State WIC Program and in the exact quantities prescribed.

The following is a list of acceptable foods:

i) Infant formula must be iron-fortified, supply approximately twenty kilocalories (20 kcal) per fluid ounce, and not require the addition of any ingredient other than water.

ii) Infant cereal which contains a minimum of forty-five milligrams (45 mg) of iron per one hundred grams (100 g) of dry cereal and contains no other ingredients, such as fruit, formula, or DHA. No organic infant cereal.

iii) Infant juice which contains a minimum of thirty milligrams (30 mg) of Vitamin C per one hundred milliliters (100 ml) of single strength or reconstituted frozen juice concentrate. Juice must be pasteurized, one hundred percent (100%) unsweetened fruit or vegetable juice. No calcium-fortified or organic juice.

iv) Pasteurized fluid whole, fat free, low-fat, or reduced fat milk which is flavored (low-fat only) or unflavored and contains four hundred international units (400 IU) of Vitamin D and two thousand international units (2000 IU) of Vitamin A per fluid quart.

v) Nonfat dry milk solids may be substituted on a reconstituted quart basis and must contain four hundred international units (400 IU) of Vitamin D and two thousand international units (2000 IU) of Vitamin A per reconstituted quart.

vi) Quarts and half (1/2) gallons of lactose-free milk (whole, reduced fat, low-fat, and fat free).

vii) Domestic cheese made from one hundred percent (100%) pasteurized milk (American, Monterey Jack, Cheddar, Mozzarella, Colby, Muenster, Swiss, and a blend of any of these flavors). Block style, sliced, crumbled, string, pearled, low-fat, reduced fat, low cholesterol, and/or low sodium are allowed.

viii) Calcium-set prepared Tofu with calcium salts of fourteen to sixteen ounces (14-16 oz), and organic tofu.

ix) Cereal (hot or cold) which contains a minimum of twenty-eight milligrams (28 mg) of iron per one hundred grams (100 g) of dry cereal and not more than 21.2 grams of sucrose and other sugars per one hundred grams (100 g) of cereal (no more than six grams (6 g) of sugar per ounce). Half of the cereals authorized must have whole grain as the primary ingredient by weight and meet labeling requirements.

x) Eggs, Grade A large, white only.

xi) Peanut butter, with no added flavorings.

xii) Mature legumes or beans.

xiii) Canned tuna or pink salmon packed in water or oil.

xiv) Infant fruits and vegetables include any variety of single ingredient, commercial infant food fruits or vegetables without added sugars, starches, or salt. No organic infant foods or foods with added DHA.

xv) Infant meats include any variety of commercial infant food having meat or poultry as a single major ingredient, with added broth or gravy, and no added sugars, salt, or DHA.

xvi) Whole grains include whole wheat bread, whole grain bread, brown rice, whole wheat, or soft corn tortillas. Whole grain must be the primary ingredient by weight in all whole grain products and meet labeling requirements for making a health claim as a “whole grain food with moderate fat content.”

(C) To retain authorization for participation a vendor must:

1. Renew the Vendor Agreement with the State WIC Program by the established renewal date.
2. Abide by the terms of the Agreement in effect.
3. Have prices which are competitive, based on the WIC Program definition, with similar type stores' prices.

SECTION 301. Processing EBT/eWIC Transactions.

In providing supplemental foods to participants, the vendor shall:

(A) Charge WIC participants the exact total price for the WIC foods provided to the participant.

(B) Ensure that all product scans (that is, the scanning and entry of the universal product code (UPC) in the redemption system) are completed or made directly from the product being sold. The vendor may not maintain a “scan book” or similar device and use the UPC labels in a book or other device in place of scanning the product UPC directly from the product being sold.

(C) Scan and charge for only the types, sizes, and quantities of food specified on the participant’s eWIC account, and only provide the types, sizes, and quantities of food specified on the participant’s eWIC account.

(D) Require the WIC participant accept/approve the eWIC transaction. Ensure store personnel do not accept/approve any eWIC transaction for WIC participants under any circumstances.

(E) Confirm the identity of the authorized person by requiring the use of the individual's personal identification number (PIN) to execute the eWIC transaction.

(F) Refuse to accept eWIC cards from any person unable to demonstrate their authorization to use the eWIC card.

(G) Release food benefits to WIC participants any time the eWIC card is decremented even if the system fails to build a claim.

(H) Accept eWIC only from authorized participants, or an authorized representative, caretaker, or proxy within the store premises.

(I) Offer WIC participants the same courtesies as other customers, including, but not limited to:

1. Providing promotional specials, such as reduced prices on items as advertised.
2. Allowing use of any open check-out line except for those indicated as "cash only."

(J) Provide WIC participants with an itemized receipt for each eWIC transaction that clearly identifies the item(s) purchased, the individual price charged for each item listed, the remaining balances of WIC available items, and benefit expiration date."

(K) Upon request, provide WIC participants with an eWIC balance inquiry.

(L) Return any eWIC cards found in the store or facility and unclaimed after twenty-four (24) hours to the local county WIC office.

(M) Mark the current shelf prices of all WIC Foods clearly on the appropriate store shelf holding the WIC food items at all times.

(N) Sell all WIC foods at competitive prices consistent with those of the vendors' peer group at all times during the terms of the Agreement.

SECTION 401. Vendor eWIC Settlement Payments.

(A) Vendors must maintain a bank account for the Automated Clearing House (ACH) transactions for eWIC settlement payments.

(B) Payments are made to the vendor daily during the end-of-day process of the eWIC system.

(C) Vendors will receive their settlement/reimbursements for eWIC transactions within two (2) business days.

(D) The eWIC benefits will be paid up to the maximum amount allowed based on the vendor's peer group for each individual food UPC.

(E) The State WIC Program may delay payment or establish a claim if the Program determines the vendor has committed a violation that affects the payment to the vendor. The State WIC Program may offset any claim against current and subsequent amounts to be paid to the vendor. The vendor is responsible for any claim assessed by the State WIC Program.

(F) The State WIC Program, at its discretion, may allow the payment of a civil monetary penalty, in lieu of disqualification, as a result of Program abuse.

SECTION 501. Monitoring of Vendors.

(A) All vendors participating in the WIC Program agree to allow periodic monitoring of their business to assess compliance with Program requirements.

(B) During a monitoring visit, the vendor shall allow access to all invoices to ensure that formula was purchased from an approved wholesaler, distributor, and/or manufacturer.

SECTION 601. Disqualifications and Sanctions.

(A) The State WIC Program may disqualify a vendor for Program abuse, failure to meet the requirements of the WIC Vendor Agreement, or other just causes.

(B) Mandatory Vendor Sanctions.

1. One (1) Year Disqualification. A vendor shall be disqualified from the WIC Program for a period of one (1) year for:

(a) A pattern of providing unauthorized food items by type, size, or quantity in exchange for WIC EBT, including charging for supplemental foods provided in excess of those listed on the WIC EBT account;

(b) A pattern of charging prices for WIC items above the maximum allowable price for stores within the same peer group and geographical area;

(c) A pattern of not providing a receipt at the end of the transaction showing the date of the transaction, product(s) purchased, and the remaining balance of available benefits;

(d) Intentionally providing incorrect quantity or type of infant formula specified on a WIC EBT account;

(e) Intentionally providing false information on the WIC Vendor Application;

(f) Intentionally providing false information on the Vendor Price Survey;

(g) Failure to provide an itemized receipt with each WIC EBT transaction;

(h) Failure to allow monitoring of the store by a WIC Program Coordinator or threatening or abusing, either verbally or physically, a WIC participants or WIC personnel in the conduct of official WIC business;

(i) Entering the PIN for the WIC participant; or

(j) Failure to attend WIC Vendor training.

2. Three (3) Year Disqualification. A vendor shall be disqualified from the WIC Program for three (3) years for:

(a) One (1) incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for one (1) or more WIC EBT cards;

(b) A pattern of claiming reimbursement for the sale of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time, failing to supply store records, or failing to allow an audit of such records by the State WIC Program;

(c) A pattern of charging WIC participants more for supplemental food than non-WIC customers or charging participants more than the current shelf price;

(d) A pattern of receiving, transacting, and/or redeeming WIC EBT cards outside of authorized channels (laundering) including the use of an unauthorized vendor and/or an unauthorized person;

(e) A pattern of charging for supplemental food not received by the WIC participant; or

(f) A pattern of providing credit or non-food items, other than alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances in exchange for WIC EBT cards.

3. Six (6) Year Disqualification. A vendor shall be disqualified from the WIC Program for six (6) years for:

(a) One (1) incidence of buying or selling one (1) or more WIC EBT cards (trafficking); or

(b) One (1) incident of buying or selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802 in exchange for WIC EBT cards.

4. Permanent Disqualification. A vendor shall be permanently disqualified from the WIC Program for any conviction of trafficking WIC EBT cards or selling firearms, ammunition, explosives or controlled substances (defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for WIC EBT cards. A vendor is not entitled to receive any compensation for revenues lost as a result of such violation.

(C) The WIC Program must disqualify a vendor who has been disqualified from SNAP. The disqualification must be for the same length of time as the SNAP disqualification, may begin later than the SNAP disqualification, and is not subject to administrative or judicial review under the WIC Program.

(D) Second Mandatory Sanction. When a vendor, who has been sanctioned for violating any of the provisions listed in this section, receives a sanction for a second violation of these provisions, the second sanction shall be double the amount of the first.

(E) Third or Subsequent Mandatory Sanctions. When a vendor, who has been assessed two (2) or more sanctions for violation of any of the provisions listed in this section, receives a third or subsequent sanction for a violation of these provisions, the third and all subsequent sanctions shall be double the amount of the immediately preceding sanction.

SECTION 701. Program Violations.

Each violation of Program regulations has a set point value and a specific time period during which the points will remain on a vendor's record. If a vendor accumulates fifteen (15) or more violation points, the

store will be disqualified from the WIC Program. The period of disqualification is determined by the nature of the violation(s), the number of violations, and past disqualifications.

(A) The following violations carry a point value of ten (10) and remain on a vendor's record for eighteen (18) months:

1. Failure to stock eight (8) or more required quantities and/or varieties of foods as listed in the Agreement.

(B) The following violations carry a point value of eight (8) and remain on a vendor's record for eighteen (18) months:

1. Contacting WIC participants in an attempt to recoup funds for eWIC transactions not paid by the Department.

2. Not providing promotional specials or not accepting cents-off coupons or store discount cards to reduce WIC price.

3. Issuing "RAIN" checks.

4. Requiring WIC participants to use special check-out lanes, not showing WIC participants the same courtesy as other customers or engaging (committing) in any act of discrimination involving a WIC participant.

5. Requiring cash purchase to redeem WIC checks or use eWIC cards.

6. Failure to stock between four to eight (4-8) food items as listed in the Vendor Agreement.

7. Failure to scan and enter all sold UPC items directly from the product being sold into the redemption system, or the use of a "scan book" or similar device used in place of scanning the product.

8. Keeping record of a participant's name or PIN after the eWIC card is transacted by or on behalf of a participant.

9. Verbal or physical abuse of a WIC participant or Department employee while the employee is conducting official WIC business.

10. Failure to allow the return of any WIC purchases for identical items that are damaged, spoiled, or has exceeded its "sell by," "best if used by," "manufacturer suggested," or other date limiting the sale or use of the food.

(C) The following violations carry a point value of five (5) and remain on a vendor's record for one (1) year:

1. Allowing the purchase of ineligible foods or substitutions for foods on an eWIC card account.

2. Failure to stock one to three (1-3) required quantities and/or varieties of foods as listed in the Agreement.

3. Where no specific brand is prescribed, requiring a participant to purchase a specific brand of WIC approved foods when more than one (1) brand is available.

4. Allowing manual entry of the eWIC card number.
5. Failing to provide valid supplier invoices proving sufficient inventory was available on the vendor's sales shelf that support the amount claimed in EBT redemptions the vendor has submitted for payment to the Department.
6. Not marking WIC items with price labels or shelf tags.
7. Collecting sales tax on WIC Purchases.
8. Stocking WIC-approved food outside of the manufacturer's expiration date.
9. Providing (selling or giving) incentive items to WIC participants.
10. Not allowing split-tender transactions on Cash Value Benefits (CVB) or eWIC transactions.
11. Asking for additional identification or the WIC participant's PIN.
12. Charging the WIC customer any fee, either directly or indirectly, arising out of or associated with operating, manufacturing, or processing WIC participants.
13. Charging the Program for food not received by a participant.

SECTION 801. Administrative Appeals.

All vendors have the opportunity to request a fair hearing (administrative review) regarding certain adverse actions taken by the Department. The vendor must provide the Department with a written fair hearing request within fifteen (15) calendar days of the receipt of the notice of the adverse action. The written request must list the actions with which the vendor disagrees, as well as reasons the vendor disagrees with these actions. If the vendor does not request a hearing within the fifteen (15) calendar-day period following notification, the Department's decision becomes final.

If a timely request of final review is filed with the DHEC Clerk of the Board, the Clerk will provide additional information regarding review procedures. If the DHEC Board declines, in writing, to schedule a final review conference, the Department's decision becomes final and the vendor may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed informing the vendor that the Board declined to hold a final review conference.