

Volume.....Vendor Management  
Citation.....246.12(1)  
Original.....08/95  
Revised.....07/02  
Implementation..10/02

Nebraska Health & Human Services  
NEBRASKA WIC PROCEDURE MANUAL  
**Topic: Overview & Definition of Sanctions**

---

Purpose: To describe the sanction system and identify the violations.

---

Overview Of the Sanction System  
The Nebraska WIC Program has implemented a sanction point system to objectively monitor all WIC authorized vendors.  
The following are definitions of terms used to describe the Nebraska WIC Program Sanction System.

Violation – an infraction of Program regulations, policies, or agreements.

Investigation – a method used by the State WIC office to determine if violations are occurring.

Sanction – an administrative action taken as a result of a violation.

Pattern – based on the type, severity, and number of the incidences of the violation.

Various points are assigned to violations of the retail vendor agreement. These points range in value from 1 to 60 or permanent disqualification depending upon the seriousness of the violation. The points are retained for three months up to 72 months, depending upon the severity of the violation. Different methods of monitoring are utilized to determine if a violation has occurred. The methods of determining these violations include: inventory audit, compliance buys, food instrument edits, monitoring, Food Stamp Program reports, and additional methods as determined by the State WIC office.

---

Establishing a Pattern of Violations  
Sanctioning points can be assessed for each single occurrence of that violation which is documented during any redemption analysis, monitoring visit(s), other formal visit(s) or follow-up of previous problems, inventory audits, or any other objective means. For those violations identified as requiring a pattern or during a compliance buy, sanction points are assessed upon at least three (3) independent documented repeated violations. The number of sanction points assigned to the violation determines the pattern of the number of occurrences of the violation before a disqualification can be assigned. When conducting

inventory audits, a pattern can be established during a single review of the vendor’s redemption records and depends on the magnitude of the shortfalls and the period of time over which they occur. A pattern of violations does not need to be present when applying a permanent disqualification.

Outline of Violations

Failure to comply with the terms of the Nebraska WIC Program Retail Vendor Agreement will result in sanction points being levied by the State WIC office. The following chart identifies the violations, the point value of the violation and the period of time the points are retained.

<u>Violations</u>	<u>Point Value</u>	<u>Points Retained For</u>
Accepting food instrument with presigned signature.	1	3 months
Failing to return the “Verification of Receipt of WIC Checks” cards mailed along with approved food instruments and/or replacement food instruments.	1	3 months
Failing to clearly mark the purchase price on the shelf or food item for a category of WIC foods.	1	3 months
Failing to submit an accurate Food Price Reporting List within two weeks from date of request.	5	6 months
Altering information on the WIC food instrument.	5	6 months
Failing to check the identity of all persons redeeming WIC food instruments by examining the WIC ID folder and comparing the authorized signature on the food instrument.	5	6 months
Requiring WIC shopper to pay the difference or to return the prescribed items when the actual purchase price exceeds the maximum purchase amount.	5	6 months
Failing to attend (without just cause) on-going or required training.	10	6 months
Requiring the WIC shopper to sign the food instrument before the purchase price is completed.	10	6 months

Failing to record the purchase price on the food instrument at the time of purchase.	10	6 months
Requiring WIC shopper to purchase other items when redeeming WIC food instruments.	10	6 months
Seeking restitution from the WIC participant for reimbursements paid to the WIC Program or for food instruments not paid by the WIC Agency.	10	6 months
Discrimination against a WIC shopper.	10	6 months
Collecting sales tax on WIC food purchases.	10	6 months
Failing to pay the WIC Program within 30 days of receipt of the certified written notification for amounts paid by the WIC Agency on WIC food instruments processed by the vendor which were not payable.	15	12 months
Failing to allow monitoring and inspection of the store premises and procedures to ensure compliance with the agreement and state and federal WIC Program rules, regulations, and policies. (Monitoring and inspection includes, but is not limited to, allowance of access to WIC food instruments negotiated the day of monitoring, access to shelf price records, and any other vendor records pertinent to the purchase of WIC food items.	15	12 months
Redeeming food instruments while the vendor is disqualified.	15	12 months
A pattern of providing unauthorized food items in exchange for WIC food instruments, including charging for supplemental food provided in excess of those listed on the WIC food instrument.**	20	12 months
A pattern of providing credit or non-food items other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances in exchange for WIC food instruments.**	30	36 months
A pattern of charging for supplemental food not received by the WIC shopper.**	30	36 months

A pattern of receiving, transacting, and/or redeeming WIC food instruments outside of the authorized channels, including the use of an unauthorized vendor and/or an unauthorized person.**	30	36 months
A pattern of charging WIC customers more for supplemental food than non-WIC customers or charging WIC customers more than the current shelf or contract price.**	30	36 months
A pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time.**	30	36 months
One incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for WIC food instruments.**	30	36 months
One WIC administrative finding of buying or selling food instruments for cash (trafficking) or selling firearms, ammunition, explosives, or controlled substances in exchange for WIC food instruments.**	60	72 months
Food Stamp Program Disqualification	Disqualification from the WIC Program for the same time period as the Food Stamp Program Disqualification	
One conviction by a criminal court of trafficking of food instruments or selling firearms, ammunition, explosives, or controlled substances in exchange for WIC food instruments. A vendor shall not be entitled to receive any compensation for revenues lost as a result of such violation.		Permanent Disqualification from the WIC Program
Permanent Disqualification from the Food Stamp Program	Permanent Disqualification from the WIC Program	



Volume.....Vendor Management  
Citation.....246.12(1)  
Original.....08/95  
Revised.....07/02  
Implementation..10/02

Nebraska Health & Human Services  
NEBRASKA WIC PROCEDURE MANUAL  
**Topic: Implementation of Sanctions**

Purpose: To describe the implementation of the sanction system through coordinated efforts of local agency and state agency staff.

Implementation

Implementing the sanction system involves a coordinated effort of local and state agency staff.

1. A combined total of:

1 - 5 points = Notification Letter of Sanction Points being levied sent by State WIC staff

6 - 15 points = Warning Letter sent by State WIC staff

16 - 19 points = 6 months disqualification

20 – 29 points = 12 months disqualification

30 –59 points = 36 months disqualification

60 or more points = 72 months disqualification

Food Stamp = Disqualification from the WIC Program  
Program for the same time period  
Disqualification as the Food Stamp Program Disqualification  
\*\*\*\*\*

When more than one violation is detected during a single investigation that results in a total of twenty (20) or more points, the disqualification period will be based upon the most serious violation.

Documentation

& Follow-Up 1.

1-5 points

a. Notification Letter from the State WIC office will be sent to inform vendor that sanction points are being levied. The vendor will also be informed he/she has a right to appeal this decision within 15 days and instructed on the process of requesting a fair hearing. A copy of this letter will be sent to the local agency WIC vendor manager for the vendor's file.

2. 6-15 points

- a. Warning Letter from the State WIC office will be sent to inform vendor that sanction points are being levied. The vendor will also be informed he/she has a right to appeal this decision within 15 days and instructed on the process of requesting a fair hearing. The letter will warn the vendor that accumulation of 16 points warrants disqualification from the WIC Program. The local agency WIC vendor manager will be contacting the vendor to schedule a training session with appropriate store personnel. A copy of this letter will be sent to the local agency vendor manager for the vendor's file.
- b. The local agency WIC vendor manager will contact the store representative to schedule a training session with appropriate store personnel. The "Nebraska WIC Program Vendor Integrity Follow-up Report" will be used to document the training follow-up. Also document the contact in the WIC computer system.

3. 16-19 points

- a. The State WIC office will provide the vendor with a 30 day advance written notice of a 6 month disqualification from the Nebraska WIC Program. The vendor will also be informed he/she has a right to appeal this decision within 15 days and instructed on the process of requesting a fair hearing. This notice shall also include the statement that the disqualification from WIC may result in withdrawal of authorization to participate in the Food Stamp Program. A copy of this letter will be sent to the local agency WIC vendor manager for the vendor's file.
- b. The State WIC office will contact the local agency WIC vendor manager to coordinate the documentation necessary for changes in the WIC computer system due to the vendor's disqualification.
- c. The State WIC agency shall provide the Lincoln, Nebraska FNS Field Office with written notification and information on the vendor disqualified from WIC. This information shall be provided within 15 days after the opportunity to file for a WIC administrative appeal has expired or all WIC administrative appeals have been exhausted.

4. 20-29 points
  - a. The State WIC office will provide the vendor with a 30 day advance written notice of a 12 month disqualification from the Nebraska WIC Program. The vendor will also be informed he/she has a right to appeal this decision within 15 days and instructed on the process of requesting a fair hearing. This notice shall also include the statement that the disqualification from WIC may result in withdrawal of authorization to participate in the Food Stamp Program. A copy of this letter will be sent to the local agency WIC vendor manager for the vendor's file.
  - b. The State WIC office will contact the local agency WIC vendor manager to coordinate the documentation necessary for changes in the WIC computer system due to the vendor's disqualification.
  - c. The State WIC agency shall provide the Lincoln, Nebraska FNS Field Office with written notification and information on the vendor disqualified from WIC. This information shall be provided within 15 days after the opportunity to file for a WIC administrative appeal has expired or all WIC administrative appeals have been exhausted.
  
5. 30-59 points
  - a. The State WIC office will provide the vendor with a 30 day advance written notice of a 36 month disqualification from the Nebraska WIC Program. The vendor will also be informed he/she has a right to appeal this decision within 15 days and instructed on the process of requesting a fair hearing. This notice shall also include the statement that the disqualification from WIC may result in withdrawal of authorization to participate in the Food Stamp Program. A copy of this letter will be sent to the local agency WIC vendor manager for the vendor's file.
  - b. The State WIC office will contact the local agency WIC vendor manager to coordinate the documentation necessary for changes in the WIC computer system due to the vendor's disqualification.
  - c. The State WIC agency shall provide the Lincoln, Nebraska FNS Field Office with written notification and information on the vendor disqualified from WIC. This information shall be provided within 15 days after the opportunity to file for a WIC administrative appeal has expired or all WIC administrative appeals have been exhausted.

6. 60 or more points
  - a. The State WIC office will provide the vendor with a 30 day advance written notice of a 72 month disqualification from the Nebraska WIC Program. The vendor will also be informed he/she has a right to appeal this decision within 15 days and instructed on the process of requesting a fair hearing. This notice shall also include the statement that the disqualification from WIC may result in withdrawal of authorization to participate in the Food Stamp Program. A copy of this letter will be sent to the local agency WIC vendor manager for the vendor's file.
  - b. The State WIC office will contact the local agency WIC vendor manager to coordinate the documentation necessary for changes in the WIC computer system due to the vendor's disqualification.
  - c. The State WIC agency shall provide the Lincoln, Nebraska FNS Field Office with written notification and information on the vendor disqualified from WIC. This information shall be provided within 15 days after the opportunity to file for a WIC administrative appeal has expired or all WIC administrative appeals have been exhausted.

7. Disqualification from the Food Stamp Program

- a. The State WIC office will provide the vendor with a 30 day advance written notice of disqualification from the Nebraska WIC Program. A WIC disqualification based on a Food Stamp Program disqualification shall be for the same length of time as the Food Stamp Program disqualification, may begin on the same or a later date than the Food Stamp Program disqualification. Disqualification from the WIC Program based upon a Food Stamp Program disqualification is not subject to administrative or judicial review under the WIC Program. A copy of this letter will be sent to the local agency WIC vendor manager for the vendor's file.
- b. The State WIC office will contact the local agency WIC vendor manager to coordinate the documentation necessary for changes in the WIC computer system due to the vendor's disqualification.
- c. The State WIC agency shall provide the Lincoln, Nebraska FNS Field Office with written notification and information on the vendor disqualified from WIC.

8. Permanent Disqualification

- a. The State WIC office will provide the vendor with a written notice of permanent disqualification from the Nebraska WIC Program. The vendor will also be informed he/she has a right to appeal this decision within 15 days and instructed on the process of requesting a fair hearing. This notice shall also include the statement that the disqualification from WIC may result in withdrawal of authorization to participate in the Food Stamp Program. A copy of this letter will be sent to the local agency WIC vendor manager for the vendor's file.
- b. The State WIC office will contact the local agency WIC vendor manager to coordinate the documentation necessary for changes in the WIC computer system due to the vendor's disqualification.
- c. The State WIC agency shall provide the Lincoln, Nebraska FNS Field Office with written notification and information on the vendor disqualified from WIC. This information shall be provided within 15 days after the opportunity to file for a WIC administrative appeal has expired or all WIC administrative appeals have been exhausted.

---

Maintenance  
Of Sanctions  
Levied

The State WIC Agency will maintain a master file of the WIC retailers and the sanction points assessed each vendor.

The local agency WIC vendor manager will also record the sanction points assessed for each vendor in the WIC computer system.

Violations committed during a disqualification will result in an extension of the disqualification.

A vendor may request reinstatement of WIC authorization, once the disqualification period has been completed.

---

Participant  
Hardship

Prior to any vendor disqualification, the Nebraska WIC Program will determine if disqualification of the vendor would result in inadequate participant access.

The Nebraska WIC Program will assess participant hardship through review of the following information.

- Identify the number of participants with the same zip code as the violative vendor. Identify the WIC authorized stores at which these participants redeem their WIC food instruments and the WIC clinics they attend. This data is reviewed to determine who would be affected if the violative store would be disqualified and where the participants live, shop, and receive WIC benefits currently.
- Identify the availability of another authorized WIC vendor(s)
  - in the same zip code as the violative vendor or
  - in the same zip code as the clinic(s) of the participants shopping at the violative vendor or
  - within one mile of the violative vendor for cities with populations of 30,000 or more or
  - within 30 miles of the violative vendor for cities/towns with populations less than 30,000.
- Identify any geographic barriers to using another authorized WIC vendor.

If the State Agency determines that disqualification of the vendor would result in inadequate participant access, the State Agency shall impose a civil money penalty in lieu of disqualification. However a civil money penalty shall not be imposed in lieu of disqualification for third or subsequent sanctions which warrant disqualification.

Participant access determinations are not subject to administrative review.

---

Participant Access  
Documentation

Documentation of participant access determination and any supporting documentation will be retained in the file of each vendor who is disqualified or receives a civil money penalty in lieu of disqualification.

Volume.....Vendor Management  
Citation.....246.12(f)(3)(xviii)  
& 246.12(1)  
Original.....05/00  
Revised.....07/02  
Implementation..10/02

---

Nebraska Health & Human Services  
NEBRASKA WIC PROCEDURE MANUAL  
**Topic: Civil Money Penalties**

Purpose: To outline the process for administering civil money penalties.

---

Civil Money Penalties in Lieu of Disqualification

Civil money penalties may be imposed in lieu of disqualification in the following situations as outlined below.

Cases of **permanent disqualification** as a result of conviction of trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances in exchange for food instruments.

The State WIC office may permit a vendor that would be permanently disqualified for this violation in accordance with the Nebraska WIC Program Sanction System, to continue to participate in the program if the Nebraska WIC Program determines, in its sole discretion, that –

- a. such action would result in inadequate participant assess.

Cases of **disqualification** as a result of other violations as outlined in the Nebraska WIC Retail Vendor Agreement in the Nebraska WIC Program Sanction System.

The State WIC Agency may permit a vendor that would be disqualified in accordance with the Nebraska WIC Program Sanction System, to continue to participate in the program if the Nebraska WIC Program determines, in its sole discretion, that –

- a. such action would result in inadequate participant assess.
- 

Guidelines For Assessing Civil Money Penalty

If the Nebraska WIC Program permits a vendor to continue to participate in the program in lieu of disqualification, the State WIC Agency shall assess the vendor a civil money penalty in an amount determined by the State WIC Agency and in accordance with the following criteria.

1. The amount of the civil money penalty shall not exceed \$10,000 for each violation.
2. The amount of civil penalties imposed for violations investigated as part of a single investigation may not exceed \$40,000.

3. If more than one violation is detected during a single investigation, a civil money penalty must be imposed for each violation (up to the \$10,000/\$40,000 limits).
  4. If a vendor does not pay, only partially pays, or fails to timely pay (includes failure to pay according to an approved installment plan) a civil money penalty within thirty (30) days of receipt of a notification letter, the State WIC Agency will disqualify the vendor for the length of the disqualification corresponding to the violation for which the civil money penalty was assessed.
- 

Formula  
For Calculating  
Civil Money  
Penalty

The formula for calculation of civil money penalties is as follows.

1. Determine the vendor's average monthly redemption for the 12 month period ending with the month immediately preceding the month during which the notice of administrative action is dated.
2. Multiply average redemption by 10%.
3. Multiply result by the number of months for which the vendor would have been disqualified. This is the amount of the civil money penalty. Refer to guidelines above for the maximum amount of the civil money penalty.

For a violation that warrants **permanent disqualification**, the amount of the civil money penalty shall be \$10,000.

---

Installment  
Plan

The State agency may allow an installment plan for the collection of civil money penalties and fines provided that the installment plan is in compliance with Federal and State laws concerning the collection of interest on such debts.

Volume.....Vendor Management  
Citation.....246.12(l)(1)(xi)  
& DOH and FNS Agreement of 1989  
Original.....07/93  
Revised.....07/02  
Implementation..10/02

Nebraska Health & Human Services  
NEBRASKA WIC PROCEDURE MANUAL  
**Topic: Relationship to the  
Food Stamp Program**

---

Purpose: Describe the violations that affect Food Stamp authorization.

---

Notification The State WIC Agency shall provide the Lincoln, Nebraska Food and Nutrition Service Field Office with a copy of the written notification and information on vendors it has disqualified from WIC or imposed a civil money penalty in lieu of disqualification from WIC for violations that it believes are covered under 7 CFR 246.12(l) of the WIC Program regulations.

This information shall include the name of the vendor, address, vendor number, the type of violation(s), and the length of disqualification or the length of the disqualification corresponding to the violation for which the civil money penalty was assessed.

Food Stamp Program authorization may be withdrawn from any vendor which is disqualified from the WIC Program or is assessed a civil money penalty in lieu of disqualification from the WIC Program based in whole or in part on the following categories of violations outlined in 7 CFR 246.12(l) of the WIC Program regulations:

- A violation of program regulations which has been shown to constitute a misdemeanor or felony violation of the law.
- One conviction by a criminal court of trafficking of food instruments or selling firearms, ammunition, explosives, or controlled substances in exchange for WIC food instruments.
- One WIC administrative finding of buying or selling WIC food instruments for cash (trafficking) or selling firearms, ammunition, explosives, or controlled substances in exchange for WIC food instruments.
- One incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for WIC food instruments.
- A pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item, which exceeds the store's, documented inventory of that supplemental food item for a specific period of time.

- A pattern of charging WIC customers more for supplemental food than non-WIC customers or charging WIC customers more than the current shelf or contract price.
- A pattern of receiving, transacting, and/or redeeming WIC food instruments outside of authorized channels, including the use of an unauthorized vendor and/or unauthorized person.
- A pattern of charging for supplemental food not received by the WIC shopper.
- A pattern of providing credit or non-food items other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances in exchange for WIC food instruments.

---

Timeframe      The State Agency shall provide this notification to the Lincoln, Nebraska FNS Field Office within 15 days after the vendor's opportunity to file for a WIC administrative review has expired or all of the vendor's WIC administrative reviews have been completed.

Volume.....Vendor Management  
Citation.....246.12(k)  
Original.....07/93  
Revised.....07/02  
Implementation..10/02

Nebraska Health & Human Services  
NEBRASKA WIC PROCEDURE MANUAL  
**Topic: Termination of a WIC Vendor  
Contract as an Adverse Action**

---

Purpose: To describe the implementation of terminating a WIC vendor contract as an adverse action.

---

#### Implementation

- Termination of the vendor agreement not initiated by or agreed to by the vendor would be taken in response to the following Program disqualifications.
  - Food Stamp Program disqualification;
  - Conviction of trafficking in food instruments or selling firearms, ammunitions, explosives, or controlled substances in exchange for food instruments resulting in permanent disqualification;
  - Assessment of sanction points warranting disqualification as outlined in the Nebraska WIC Program Sanction System; or
  - Assessment in the Food Stamp Program of a civil money penalty in lieu of disqualification due to participant hardship.
- The State Agency shall not accept voluntary withdrawal of the vendor from the Program as an alternative to disqualification.
- In addition, the State Agency shall not use nonrenewal of the vendor agreement as an alternative to disqualification.
- Because termination of the vendor agreement not initiated by or agreed to by the vendor is an adverse action, the State Agency will be responsible for notification to the vendor and the processing of the termination.