

<p style="text-align: center;">Nutrition Services Department of State Health Services</p>

Effective April 1, 2015

Policy No. WV:03.0

Inadequate Participant Access

Purpose

To ensure that disqualifying a vendor for contract/policy violations does not result in inadequate participant access to WIC foods. The issue is one of participant access, not participant convenience.

Authority

7 CFR Part 246.12

Policy

Prior to disqualifying a vendor from participation in the WIC Program, the state agency (SA) shall consider the adequacy of access by participants to authorized vendors in the local area.

Procedures

- I. Prior to the disqualification of a WIC authorized vendor, the SA shall make a determination as to the adequacy of participant access to WIC foods. When making the determination, the SA shall consider the proximity of other authorized vendors to the vendor facing disqualification and any geographic barriers to accessing such vendors by participants. Specifically, participant access shall be determined to be adequate when:
 - A. at least one authorized vendor is located within a 10 mile radius of the disqualified vendor; and
 - B. the SA considered but found no geographic barriers for participants to access another authorized vendor. Such barriers might include, but are not limited to, bridges or interstate highways not open to foot traffic, rivers, or steep terrain not accessible by roadways. Any determination finding inadequate

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participant access shall be made in consultation with the applicable local agency.

- II. Prior to a disqualification, the SA shall document in the file of each vendor disqualified, the adequacy of participant access, including any supporting information thereto.
- III. If the SA, in its sole discretion, determines that disqualifying a vendor would result in inadequate participant access, the SA shall impose a Civil Money Penalty (CMP) on the vendor in violation in lieu of disqualification except when prohibited by 7 CFR Part 246.12. The amount of the CMP is determined using the calculations set forth in Policy WV:01.0.
- IV. In accordance with 7 CFR Part 246.12 (f) (2) (xviii), the SA's determination regarding participant access is not subject to administrative review.