

# 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**

<b>Date</b>	<b>Document Number</b>	<b>Volume</b>	<b>Issue</b>
March 27, 1987	528	11	3
May 24, 1991	1236	15	5
October 27, 2000	2540	24	10
May 26, 2017	4671	41	5

**Table of Contents**

Section 101	Definitions	1
Section 201	Approval of Vendors	1
Section 301	Redemption of Food Instruments	3
Section 401	Submitting Food Instruments for Payment	4
Section 501	Payment of Food Instruments	4
Section 601	Correction of Rejected Food Instruments	4
Section 701	Monitoring of Vendors	5
Section 801	Disqualifications and Sanctions	5
Section 901	Program Violations	6
Section 1001	Administrative Appeals	7

## **SECTION 101 Definitions.**

As used in these regulations, the following terms shall have the meaning specified:

- (A) DHEC. The South Carolina Department of Health and Environmental Control.
- (B) State Agency. The South Carolina Department of Health and Environmental Control.
- (C) WIC Program. The Special Supplemental Nutrition Program for Women, Infants and Children.
- (D) State WIC Program. Division of WIC Services. Bureau of Maternal and Child Health, South Carolina Department of Health and Environmental Control.
- (E) Food Instrument. The document which is used by a participant to obtain supplemental foods.
- (F) WIC Vendor. Any store or pharmacy 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 State Agency may redeem food instruments or otherwise provide supplemental foods to participants.
- (B) To be authorized for participation as a WIC Vendor, a vendor must:
  - 1. Request, in writing or by phone, 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, transacts deposits, or stores WIC food instruments 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.

9. Comply with at least one established definition for store type within the four (4) Regions. Type 1 Chain, Type 2 Franchise, Type 3 Commissary, Type 4 Independent/Convenience and 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 am - 10 pm.

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 (20) kilocalories per fluid ounce, and not require the addition of any ingredient other than water.

ii) Infant cereal which contains a minimum of 45 milligrams of iron per 100 grams 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 30 milligrams of Vitamin C per 100 milliliters of single strength or reconstituted frozen juice concentrate. Juice must be pasteurized, 100% unsweetened fruit or vegetable juice. No calcium-fortified or organic juice.

iv) Pasteurized fluid whole, fat free, lowfat or reduced fat milk which is unflavored and contains 400 international units of Vitamin D and 2000 international units of Vitamin A per fluid quart; or

v) Nonfat dry milk solids may be substituted on a reconstituted quart basis and must contain 400 international units of Vitamin D and 2000 international units of Vitamin A per reconstituted quart; or

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

vii) Domestic cheese made from 100% pasteurized milk (American, Monterey Jack, Cheddar, & Mozzarella). Block style or sliced, lowfat, reduced fat, low cholesterol and/or low sodium are allowed.

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

ix) Eggs, Grade A large, white only.

x) Peanut butter, with no added flavorings.

xi) Mature legumes or beans.

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

xiii) 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.

xiv) 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.

xv) 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 Redemption of Food Instruments.**

In providing supplemental foods to participants, the Vendor shall:

(A) Only provide the supplemental foods as specified in the WIC Food Guide and only the types, sizes and quantities specified on the food instrument.

(B) Accept food instruments only from individuals who present a valid South Carolina WIC Program ID Card listing them as authorized to redeem the food instruments and receive the supplemental foods.

(C) Provide the supplemental foods at the current price or less than the current price charged to other customers, as indicated on individual food items or shelf labels indicating the price of the items.

(D) Accept food instruments from participants only within the allowed time period, as listed on each food instrument.

(E) Accept manual food instruments only if they have been stamped with a WIC Program stamp.

(F) Refuse to accept any food instruments on which the valid dates or food prescriptions have been altered in any way.

(G) Enter the date of purchase and total purchase amount (less tax) for the supplemental foods on the food instruments prior to obtaining the signature of the person authorized to receive the foods.

(H) Obtain the signature of the person receiving the supplemental foods and check that signature against the signature on the WIC Program ID Card.

(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”.

**SECTION 401 Submitting Food Instruments for Payment.**

(A) The vendor must deposit food instruments into their local retail bank within thirty (30) days of the “Void after Date”.

(B) Each food instrument must be stamped with the official WIC vendor stamp provided to the vendor by the State WIC Program Office prior to depositing.

**SECTION 501 Payment of Food Instruments.**

(A) The State Agency may reject food instruments improperly redeemed and may request reimbursement for payments already made for improperly redeemed food instruments. Reasons food instruments may be rejected include, but are not limited to:

1. Food instruments accepted prior to or after the valid dates.
2. Food instruments on which the date of purchase has not been entered.
3. Food instruments on which the purchase amount has not been entered.
4. Manual food instruments on which the local WIC Program stamp has not been applied.
5. Food instruments on which a valid WIC vendor stamp has not been applied.
6. Food instruments on which the serial number is illegible.
7. Food instruments on which a valid participant signature has not been applied.
8. Food instruments on which the valid dates or food prescription/quantities have been altered.
9. Food instruments accepted by a vendor which is not an authorized vendor as stipulated in Section 201 of these regulations.
10. Food instruments deposited more than thirty days (30) after the “Void after” date.

(B) 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.

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

**SECTION 601 Correction of Rejected Food Instruments.**

(A) Vendors shall have the opportunity to correct food instruments which are rejected for errors.

(B) Vendors must justify, correct or provide adequate proof that food instruments were accepted according to the procedures listed in Section 401 of these regulations.

(C) The State WIC Program has the authority to refuse payment for food instruments on which proper corrections have not been made or with which adequate proof of proper acceptance has not been received.

**SECTION 701 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 food instruments accepted and located in the store at the time of the monitoring visit.

**SECTION 801 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 in exchange for WIC food instruments, including charging for supplemental food provided in excess of those listed on the WIC check;

(b) A pattern of charging above the maximum allowable price for WIC items;

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

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

(e) Non-payment of any claim for overcharges to the WIC Program;

(f) Failure to allow monitoring of stores by a WIC Investigator or failure to provide WIC food instruments for review when requested by the WIC Investigator;

(g) Forging a signature on WIC food instruments;

(h) Failure to submit a WIC Vendor Price Survey; or

(i) 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 incident of the sale of alcoholic beverage or tobacco products in exchange for WIC food instruments;

(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 food instruments outside of authorized channels, 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 food instruments.

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

(a) One incident of buying or selling WIC food instruments for cash (trafficking);

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

4. Permanent Disqualification. A vendor shall be permanently disqualified from the WIC Program for any conviction of trafficking (buying or selling WIC food instruments for cash) or selling firearms, ammunition, explosives or controlled substances in exchange for a WIC food instrument. A vendor is not entitled to receive any compensation for revenues lost as a result of such violation.

(C) A vendor who has been disqualified from SNAP shall also be disqualified from the WIC Program. This disqualification shall be the same length of time as SNAP disqualification, and may begin at a later date than the SNAP disqualification. This disqualification shall not be 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 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 901 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.

1. The following violations carry a point value of 8 and remain on a vendor's record for 18 months:

- (a) Contacting WIC participants in an attempt to recoup funds for instruments not paid by the Program.
  - (b) Not providing “promotional specials” to WIC participants or not accepting cents-off coupons or store discount cards from WIC participants to reduce the amount charged to the program.
  - (c) Issuing “RAIN” checks.
  - (d) Requiring WIC participants to use special check-out lanes, not showing WIC participants the same courtesies as other customers, or engaging in any act of discrimination involving a WIC participant.
  - (e) Knowingly entering false information on food instruments.
  - (f) Requiring participants to make a cash purchase to redeem food instruments.
  - (g) Failure to stock between 4-8 food items as listed in the Vendor Agreement.
2. The following violations carry a point value of 5 and remain on a vendor’s record for one (1) year:
- (a) Allowing substitution for foods listed on the food instrument.
  - (b) Failure to stock between 1-3 food items as listed in the Vendor Agreement.
  - (c) Requiring participants to purchase a specific brand of WIC approved foods when more than one brand is available.
  - (d) Using a WIC stamp other than the one issued by the State WIC Program.
  - (e) Failure to properly redeem food instruments including but not limited to: not asking for I.D. cards, not completing date and purchase price on food instrument prior to obtaining participant’s signature.
  - (f) Not marking WIC items with price labels or shelf tags.
  - (g) Collecting sales tax on WIC Purchases.
  - (h) Stocking WIC approved food outside of the manufacturer’s expiration date.
  - (i) Providing (selling or giving) incentive items to WIC participants.

**SECTION 1001 Administrative Appeals.**

All vendors have the opportunity to request a fair hearing (administrative review) regarding certain adverse actions taken by the State Agency. The vendor must provide the State Agency with a written fair hearing request within fifteen days (15) 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) day period following notification, the State Agency’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 State Agency’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.