

PURPOSE: To describe the parameters in place to determine the number of authorized WIC Vendors in a zip code area.

DEFINITIONS:

Participant access means the ability for WIC participants to easily access WIC-authorized Vendors. In Michigan, this is defined by Vendor location relative to other WIC-authorized Vendors (1-mile radius in urban areas and 5-mile radius in rural areas), the number, location and specific needs of participants, and geographic barriers limiting participant access to other Vendors.

Pharmacy Vendor means a Vendor who is authorized to provide only WIC-approved formulas and nutritionals in exchange for WIC benefits. Pharmacy Vendors may be grocers with on-site pharmacies or stand-alone pharmacies.

Point-of-Sale (POS) terminal means a hardware system for processing electronic card payments at a retail location. A POS terminal may be a stand-beside device, which requires Vendors to ring up WIC transactions separately, or an integrated system which can accept multiple payment types at once.

Rural refers to areas with populations of 2,499 or less in a zip code.

Urban refers to areas with populations of 2,500 or more in a zip code.

A. POLICY:

1. The Department will determine the number and distribution of WIC Vendors needed within a local agency zip code area using the following criteria.
 - a. Each zip code will be categorized as rural or urban in accordance with the population of the area.
 - b. The number of Vendor openings in a given zip code will generally be determined as follows:
 - i. In rural zip codes, the number of Vendors the Department may authorize is based on the Vendor to participant ratio of 1 to 75.
 - ii. In urban zip codes, the number of Vendors the Department may authorize is based on the Vendor to participant ratio of 1 to 175.
 - c. The Department, in its sole and exclusive discretion, reserves the right to determine or reassess the number of Vendors needed in each zip code area due to unique or changing circumstances. Factors for determining the number of vendors needed in

an area include, but are not limited to, geographic barriers, location of participants in vicinity to stores, participant access, and cultural considerations..

2. The Department reserves the right to limit the number of authorized WIC Vendors in a zip code area.
3. If there are more qualified applicants than openings in a zip code, the Department will rank the Vendors for selection based on a point system.
 - a. When ranking Vendors, Vendors will be assessed consistently across one or all of the following criteria:
 - i. Food prices (See Exhibit 2.04A WIC Vendor Price Collection);
 - ii. Maximum number of WIC-approved food types and brands (See Exhibit 2.04B Vendor Product Availability Assessment);
 - iii. History of WIC Program participation and compliance; and
 - iv. Other factors listed in the Department's limitation and selection criteria policies. (See Vendor Policy 2.02 Vendor Selection Criteria.)
 - b. The Department's ranking process criteria are not subject to appeal. (See Vendor Policy 7.02 Adverse Actions Subject to Appeal.)
 - c. Vendors that have been denied in ranking may reapply for authorization ninety (90) days after receiving their denial notice.
 - d. Pharmacy Vendors are not subject to the limitation policy and are not included as part of the ranking process. (See Vendor Policy 3.01 WIC Pharmacy Vendors.)
4. The Department will follow the same ranking process for applications received outside of the Open Application Period (OAP) as openings become available.
5. In the sole and exclusive discretion of the Department, this Limitation Policy may be subject to the following exceptions:
 - a. Change of Ownership Exception
 - i. WIC Vendor Applications received from new owners who purchase stores from authorized WIC Vendors at the same location may be considered for authorization subject to the following conditions:
 1. The existing WIC-authorized Vendor has notified the department of the change of ownership as required by Section XI of the WIC Vendor

Contract. (See Exhibit 2.05A WIC Vendor Contract and 2.05B WIC Pharmacy Vendor Contract.)

2. A new owner's WIC Vendor Application, including documented proof of ownership, must be received by the Department no later than thirty (30) calendar days after the date the ownership changed.
 3. The business under the new owner should be operational from the date of purchase in order to receive WIC authorization as soon as possible. The Department may, in its sole and exclusive discretion, grant specific approval for temporary closure from the date of purchase for a period not to exceed 60 days for store renovations, other business improvements, etc., upon receipt of specific written request from the new owner.
 4. A change of ownership exception will not be considered whenever a notice of adverse action has been issued to a Vendor initiating a disqualification, or civil money penalty in lieu of disqualification, regardless of the stage of the proceedings or whether a final decision has been issued.
 5. The Department will not authorize the new owner if it determines that the store had been sold by its previous owner in an attempt to circumvent a WIC sanction.
- ii. If a contract is granted to the new owner under a change of ownership exception, it will expire on the same date as the contract which had been granted to the previously authorized Vendor. Contracts will not be granted to new owners under this provision when there are 30 or fewer calendar days remaining from the actual date of change of ownership before the expiration date of the contract with a prior owner. (See Vendor Policy 2.01 Vendor Applications & Authorization, 2.05 Application Determination & Contract Execution, and 2.06 Contract Expiration & Termination.)

b. Change of Location Exception

- i. A change of location exception may be made for authorized WIC Vendors who change their business location within:
 1. A ½ mile radius in an urban area; or
 2. A 2 ½ mile radius in a rural area.
- ii. In this instance, the Vendor may remain authorized and an amendment to the current WIC Vendor Contract will be processed identifying the new business location. The amended contract will expire on the same date as the

prior contract with the Vendor.

- iii. The WIC Vendor Contract will become null and void if there is a change in business location greater than the above specified distances. (See Exhibit 2.05A WIC Vendor Contract and 2.05B WIC Pharmacy Vendor Contract.)

c. Temporary Closure Exception

- i. The Department, in its sole and exclusive discretion, may allow an authorized WIC Vendor to continue participation in the WIC Program if the Vendor had to be temporarily closed due to casualty losses or natural disaster, renovations, or for other reasons.
- ii. The Vendor must notify the Department of the temporary closure immediately, but no later than 21 calendar days from the date of the temporary closure. The notification from the Vendor must indicate the date the Vendor expects to reopen the business.
- iii. The Vendor may retain its WIC authorization for a period of up to 12 months from the date of temporary closure to complete the necessary repairs or renovations.
- iv. The Department will not extend the Vendor's contract for a period of temporary closure beyond 12 months or from one contract period to the next contract period.
- v. The Department will not process a WIC Vendor Application from a Vendor that is closed and has not reopened for business.

d. Quality Exception

- i. In order to promote greater variety and selection options for WIC participants, the Department, in its sole and exclusive discretion, may consider the addition of new Vendors in areas where no openings currently exist, or outside of the designated open application period for that area. (See Vendor Policy 2.01 Vendor Applications & Authorization.)
- ii. In such a case, a Vendor may be considered for authorization to participate in the WIC Program if the Vendor can demonstrate an ability to provide substantially more than the current minimum requirements in effect for variety and selection of WIC-approved foods to WIC participants. (See Exhibit 2.04C WIC Vendor Quality Exception Review.)
- iii. The following criteria will be used as the primary guidelines to assist the Department in determining whether a Vendor will be considered under this exception:

1. The Vendor meets all selection criteria;
2. The Vendor routinely operates at least three (3) checkout lanes;
3. The Vendor routinely maintains an inventory that is at least double the inventory requirements listed in the current mandatory WIC Vendor Minimum Stock Requirements; and
4. The Vendor's sales of alcohol do not exceed 30% of its gross sales. (See Exhibit 2.01E Quality Exception Pre-authorization Report.)

e. Participant Access Exception

- i. The Department may also consider the following criteria to determine if making an exception to the limitation policy would result in greater participant access:
 1. In urban areas, whether there is another WIC-authorized Vendor within a 1-mile radius of the Vendor applicant.
 2. In rural areas, whether there is another WIC-authorized Vendor within a 5-mile radius of the Vendor applicant.
 3. Number, location, and specific needs (including cultural) of participants within the vicinity of the store.
 4. Geographic barriers limiting participant access to other Vendor locations.
- ii. If an applicant meets any or all the above criteria, they may be authorized at the discretion of the Department even if there are not any Vendor openings in an area.
- iii. Participant access Vendors qualify for state-funded stand-beside point-of-sale (POS) devices. While not subject to the limitation policy, Pharmacy Vendors may also receive this classification (relative to other Pharmacy Vendors in their area) in order to be eligible for state-funded equipment.

References:

7 CFR Part 246.12 (g) (h)

Cross-References:

2.01 Vendor Applications & Authorization
2.02 Vendor Selection Criteria
2.05 Application Determination & Contract Execution
2.06 Contract Expiration & Termination

3.01 WIC Pharmacy Vendors

7.02 Adverse Actions Subject to Appeal

Exhibits:

2.01E Quality Exception Pre-authorization Report

2.04A WIC Vendor Price Collection

2.04B Vendor Product Availability Assessment

2.04C WIC Vendor Quality Exception Review

2.05A WIC Vendor Contract

2.05B WIC Pharmacy Vendor Contract