

5.0 Vendor Compliance

Effective Date: 09-01-2024

5.07 Compliance During Emergencies & Disruptions

PURPOSE: To describe WIC monitoring procedures and Vendor compliance during emergency periods and supply chain disruptions.

DEFINITIONS:

Direct distribution means a system in which WIC participants or proxies pick up authorized supplemental foods from storage facilities operated by the Department or its local agencies.

Disaster means a sudden, calamitous event that seriously disrupts the functioning of a community or society and causes human, material, and economic or environmental losses that exceed the community's or society's ability to cope using its own resources.

Emergency means a serious, unexpected, and often dangerous situation whose scale, timing or unpredictability threatens to overwhelm routine capabilities requiring all-hazards approach and immediate action.

Emergency period means a period during which there exists:

1. A presidentially declared major disaster as defined under section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ([42 U.S.C. 5121 et seq.](#)).
2. A presidentially declared emergency as defined under section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ([42 U.S.C. 5121 et seq.](#)).
3. A public health emergency declared by the Secretary of HHS under section 319 of the Public Health Service Act ([42 U.S.C. 247d](#)).
4. A renewal of such a public health emergency pursuant to section 319.
5. State-declared emergencies.

Infant formula means a food that meets the definition of an infant formula in section 201(z) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(z)) and that meets the requirements for an infant formula under section 412 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350a) and the regulations at 21 CFR parts 106 and 107.

Public health emergency means a significant outbreak of infectious disease or bioterrorist attack that presents a significant danger to the public.

Stakeholder means a person or entity with an interest or concern in something, in this case WIC Vendor policies and procedures. This includes, but is not limited to, wholesalers, distributors and retailer associations.

Supply chain means the sequence of processes and people involved in the production and distribution of a commodity.

Supply chain disruptions include but are not limited to: labor shortages, temporary business disruptions, delays in the availability of products, production issues, a mismatch between supply and demand, or other shortages and/or recalls impacting WIC supplemental foods.

WIC-accepted supplier means a supplier of WIC-approved foods and/or formulas that is:

1. A Michigan based wholesaler, distributor, or retailer that is licensed to distribute food by the Michigan Department of Agriculture and Rural Development (MDARD);
2. A non-Michigan based wholesaler, distributor, or retailer that is licensed to distribute food by the MDARD equivalent in the jurisdiction in which it is located;
3. A Michigan based pharmacy that is licensed by the Michigan Department of Licensing and Regulatory Affairs (LARA);
4. A non-Michigan based pharmacy that is licensed by the LARA equivalent in the jurisdiction in which it is located; or
5. A manufacturer that is registered with the Food and Drug Administration (FDA).

A regularly updated list of MDARD-licensed sources can be found on the WIC Vendor website at Michigan.gov/WICVendor. Please contact the Michigan WIC program if you have questions about whether a supplier is *WIC-accepted*.

WIC benefits means electronic benefits that can be used to purchase WIC-approved food items from authorized WIC Vendors using a WIC electronic benefits transfer (EBT) card.

WIC nutritionals means authorized medical foods that are specifically formulated to provide nutritional support for individuals with a qualifying condition.

A. POLICY:

1. The Department shall have procedures in place to address WIC Vendor compliance and participant access during emergency periods and/or supply chain disruptions that is determined to have significant impact on WIC program operations and the ability of WIC participants to access WIC foods.
2. At its sole and exclusive discretion, the Department may take one or more of the following steps for affected Vendors during a disaster or emergency:
 - a. Temporary suspension of any or all compliance activities, including on-site monitoring visits, inventory audits, and compliance buys.
 - i. Compliance activities may not be suspended if doing so will negatively impact the Department's ability to monitor at least 5 percent of all WIC Vendors authorized during a given fiscal year. (See Vendor Policies 5.03 In-store Monitoring Visits, 5.04 Inventory Audits, and 5.05 Compliance Buys.)
 - ii. Virtual compliance visits may be utilized when on-site visits are not plausible, such as during a pandemic.

- b. Temporary adjustment or pause in the assessment of Vendor compliance with specific WIC Vendor Selection Criteria. This includes, but is not limited to, changes to the Minimum Stock Requirements (MSRs) and deferment of the required minimum quarterly volume of WIC sales. (See Vendor Policy 2.02 Vendor Selection Criteria.)
 - i. Any exceptions to the WIC Vendor Selection Criteria must be applied equally to all similarly-situated and/or affected Vendors.
 - ii. Emergency exceptions to the WIC Vendor Selection Criteria may not include:
 - 1. The federally required minimum variety and quantity of supplemental foods (i.e., two different fruits, two different vegetables, and one approved whole grain cereal);
 - 2. The requirement to purchase WIC foods from a WIC-accepted supplier.
 - c. Expansion of the Approved Product List (APL) to allow for additional brands and package sizes.
 - d. Direct distribution from WIC local agencies of WIC-approved formula and nutritionals may be used at the Department's discretion in instances where normal retail distribution has been deemed unsuccessful. (See MI-WIC Policy 8.10 Local Agency Formula Distribution.)
 - e. Other measures deemed appropriate by the Department.
- 3. In order to better understand Vendor and supply chain disruptions during emergencies, as well as inform Michigan WIC response, the Department may collect Vendor data and experiences via surveys. Vendors are required to respond to surveys and other inquiries, as requested.
 - 4. If deemed necessary by the Department for participant access, Michigan WIC may expedite the Vendor authorization process.
 - 5. If deemed necessary to ensure continued benefit access and redemption by WIC participants, the Department may request waivers to program requirements from the United States Department of Agriculture (USDA). Waivers may include, but are not limited to, imported formula authorization and issuance, issuance of non-contract brand formulas and vendor substitutions.
 - 6. The Department will notify Vendors and other stakeholders of any changes in standard operating procedures and/or the cessation of any emergency protocols. Vendor communication may take the form of:
 - a. Emailed notices,

- b. Mailed correspondence,
- c. Webinars,
- d. Newsletter articles,
- e. Bulletins on the State WIC website, and/or
- f. Other forms of communication as deemed appropriate.

References:

- 7 CFR Part 246.2
- 7 CFR Part 246.7 (f)
- 7 CFR Part 246.12 (a) (b) (n) (o)
- 7 CFR Part 246.14 (b)
- 7 CFR Part 246.16 (a)
- 7 CFR Part 246.24

Cross-References:

- 2.02 Vendor Selection Criteria
- 5.03 In-store Monitoring Visits
- 5.04 Inventory Audits
- 5.05 Compliance Buys
- MI-WIC Policy 8.10 – Local Agency Formula Distribution

Exhibits:

- 2.02A WIC Vendor Minimum Stock Requirements