

SECTION V: RETAILER COMPLIANCE

Overview

The Department has systems to detect retailers who commit violations or defraud the program. These systems also enable the Department to identify those retailers who, knowingly or unknowingly, violate federal regulations, program policies and procedures, and/or the terms of the WIC Retailer Agreement. In order to ensure program integrity, it is necessary to impose sanctions consistently against retailers who are in violation.

The retailer shall comply with the nondiscrimination provisions of Departmental regulations (7 CFR parts 15, 15a, and 15b). No person shall be subject to discrimination on the basis of race, color, national origin, sex, age, or disability. The retailer shall comply with the nondiscrimination provisions of Governor's Executive Order #87-6 and all other State laws. No person shall be subject to discrimination on the basis of religion or political affiliation.

Since this agreement is federally funded, the retailer shall abide by the provisions of Appendix B 45 CFR Part 76, Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction which is incorporated herein as if fully set out.

5.1 Retailer Monitoring

Policy

By signing the WIC Retailer Agreement, the retailer agrees that the Department or its designee may monitor the retailer for compliance.

During the course of a monitoring review the retailer shall provide access to all redeemed WIC checks that have not been submitted for payment, receipts for WIC checks submitted for payment, purchase orders and/or invoices for WIC approved foods, shelf price records, and all retail and storage areas.

All retailers will be monitored at least once during the agreement period. Retailers may be monitored numerous times during the agreement period at the sole discretion of the Department. Retailers to be monitored are determined by a number of criteria including, but not limited to, the following: date retailer was last monitored, new retailers within the program, compliance with previous monitorings, participant and/or LWP complaints, legislative requests, other retailer complaints, failure to comply with corrective action plans, failure to maintain pricing within peer groups and other criteria as related to identifying high-risk retailers found within the federal regulations. Retailers that are determined to be high-risk will receive compliance investigations, which include covert compliance buys.

In addition to the routine monitor procedures outlined below, the Department shall perform covert investigations, receipt audits, inventory audits and pre-closure receipt audits of retailers to detect possible cases of fraud or abuse of the program.

Signs

Retailers must post a WIC authorization sign at each customer entry door. All WIC approved food items need to be identified with a “WIC Approved” tag on the shelf and must have the price displayed for each WIC food item.

**Routine
Monitoring
Procedure**

Routine retailer monitoring may consist of, but not be limited to, the following:

1. Verify the store name, vendor number, address and manager of the retailer.
2. Conduct a price survey to verify the WIC prices.
3. Review the WIC items to ensure that they are clearly marked as WIC approved and that the store has the minimum stocking requirements for WIC approved foods.
4. An inspection of the sanitary conditions of the meat, produce, frozen foods, dairy and egg cases and general cleanliness of the store. For questionable items, make notations as to whether a referral needs to be made to the local public health agency.
5. Ensure that the packaging of all WIC approved food is in good condition and protects the integrity of the contents, so that the food is not exposed to adulteration or potential contaminants. Assure that WIC approved food is within the date imprinted on the product packaging by the product’s manufacturer or packager.
6. Conduct an educational purchase of WIC foods to observe transaction procedures. (This procedure may be omitted if an actual WIC transaction is observed and documented by the monitor staff.) The monitor may select WIC approved and non-approved items and observe the cashier's reaction and response when they are placed before him/her. The monitor will observe and document the order in which the transaction steps occur. The monitor will evaluate the transaction process and advise the cashier and person in charge of both positive and negative aspects of the transaction. All parties will void the transaction and return the foods to the store shelves. The monitor will retain the sales receipt and the WIC check used.

7. Review the past seven (7) to ten (10) days of WIC receipts, checking to see if non-WIC foods have been sold or that more foods have been sold than allowed. (Example; three (3) boxes of Corn Squares show on the receipt. The box size is 14.8 so three (3) boxes would exceed the thirty-six (36) ounce maximum amount that is allowed.)
8. Check all redeemed WIC checks currently in the possession of the retailer. Note any improperly transacted WIC checks and list their check numbers with an explanation of the problem. Errors detected will result in the Department making a claim against the retailer.
9. Once all the steps have been performed an exit interview will be done. The monitor will discuss all findings with the manager or designee. This discussion shall serve as an exit interview. The monitor will obtain the printed name and signature of the manager or designee before leaving the store.
10. The Department will review the monitoring report and send a letter to the retailer detailing the agreement violations or no violations, and the corrective action needed to correct them. The retailer will be required to fulfill the corrective action plan identified in the letter.
11. Follow-up will occur to ensure corrective action has taken place. Further follow-up will occur as indicated and necessary.

Covert Buy Investigations

The Department may perform covert compliance buy investigations on any retailer at any time during the agreement period. Investigators will perform covert buys to determine whether the retailer is in compliance the WIC program’s rules and regulations as outlined in with the WIC Retailer Agreement and in this manual.

During the covert buy investigation a written warning of non-compliance may be issued at the discretion of the Department. Once a warning has been issued to the retailer any further covert buys that result in further non-compliance violation(s) the Department will issue a fine and/or mandatory training relative to that violation class. A fine of fifty dollars (\$50) will be assessed for each Class “C” and/or “D” violation found during a covert buy.

The Department has the right to establish a claim and demand refunds for payments already made on improperly transacted or redeemed WIC checks and for charges of more than the retailer’s actual selling price. The Department may also issue sanctions that may include fines or having the WIC Retailer Agreement terminated or being disqualified from the WIC program.

Inventory Audit

The Department may perform an inventory audit on any retailer at any time during the agreement period. Inventory audits are generally for a thirty (30) to sixty (60) day period of time. A monitor will perform the initial phase of an inventory audit, which entails a detailed count of targeted food items during a

routine monitoring. At the end of the determined time period the monitor will return to perform a second inventory count. All WIC sales receipts and invoices for stock that has been ordered and received during the audit time period will be requested. All WIC sales receipts and WIC checks for the sales that have occurred on that day will be reviewed to determine how much inventory has been sold.

All WIC sales receipts and invoices for stock will be returned to the WIC central office and compared to all of the redeemed WIC checks for the audit time period. At the completion of the inventory audit the Department has the right to establish a claim and demand refunds for payments already made on improperly transacted or redeemed WIC checks and for charges of more than the retailer's actual selling price.

Failure to provide these documents may result in a claim for repayment of WIC funds paid to the retailer as outlined in the WIC Retailer Agreement and in this manual. The Department may also issue sanctions that may include having its WIC Retailer Agreement terminated or being disqualified from the WIC program.

Receipt Audit

The Department may perform a receipt audit on any retailer at any time during the agreement period. Receipt audits may be for any length of time up to a three (3) year period. However, receipt audits are normally performed for a thirty (30) to ninety (90) day period. The retailer is required to provide to WICNS copies of all WIC sales receipts and invoices for the specific time period requested. These documents are to be supplied within fifteen (15) days of the date of the written request.

At the completion of the receipt audit the Department has the right to establish a claim and demand refunds for payments already made on improperly transacted or redeemed WIC checks and for charges of more than the retailer's actual selling price. Failure to provide these documents may result in a claim for repayment of WIC funds paid to the retailer as outlined in the WIC Retailer Agreement and in this manual.

Pre-Closure Receipt Audit

The Department may perform a pre-closure receipt audit on any retailer who has been determined to be a high-risk retailer, has a history of non-compliance with the WIC program policies and regulations, has been suspended, is having its WIC Retailer Agreement terminated or is being disqualified from the WIC program. Retailers who are voluntarily terminating their WIC Retailer Agreement may receive a pre-closure receipt audit at the Department's discretion.

Pre-closure audits may be for any length of time up to the full three (3) year period of the current agreement. The pre-closure audit will exclude any period of time where an earlier claim for recoupment has been made. The retailer is required to provide to WICNS copies of all WIC sales receipts and

invoices as requested. These documents are to be supplied within fifteen (15) days of the date of the written request.

At the completion of the pre-closure receipt audit the Department has the right to establish a claim and demand refunds for payments already made on improperly transacted or redeemed WIC checks and for charges of more than the retailer's actual selling price. Failure to provide these documents may result in a claim for repayment of WIC funds paid to retailer as outlined in the WIC Retailer Agreement and in this manual.

5.2 Program Abuse

**Prosecution/Fines
Criminal Penalties** A retailer committing fraud or abuse of the WIC program is liable for prosecution under applicable federal, state or local laws. A retailer which has willfully misapplied, stolen, or fraudulently obtained WIC program funds shall be subject to a fine of not more than \$25,000 or imprisonment for not more than five (5) years or both, if the value of the funds is \$100 or more. If the value is less than \$100, the penalties are a fine of not more than \$1,000 or imprisonment for not more than one (1) year or both [7 CFR 246.12(h)(3)(xx)].

**Notification
of Violations** A retailer shall be notified in writing, when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction (e.g., the mandatory sanctions: overcharging, receiving, transacting and/or redeeming WIC checks outside authorized channels including the use of an unauthorized retailer and/or an unauthorized person; charging for supplemental food not received by the participant; providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for WIC checks; or providing unauthorized food items in exchange for WIC checks, including charging for supplemental food provided in excess of those listed on the WIC check.)

Notice will be given to the retailer unless it is determined that notification would compromise the investigation. The State agency does not have to provide the retailer with prior warnings that violations were occurring before imposing any of the sanctions in paragraph (1) of 7 CFR 246.12 (l)(3) relating to prior warnings.

This requirement also applies to any state agency retailer sanction for which a pattern of violations must be established in order to impose a sanction. This notice will be given to the retailer unless it is determined that notification would compromise the investigation.

Disqualification

State and Federal regulations provide for mandatory sanctions up to and including disqualification. Disqualification from the WIC program may result in a retailer's disqualification from the Supplemental Nutrition Assistance Program (SNAP), formerly the food stamp program. Such disqualification is not subject to administrative or judicial review under the SNAP.

The Department shall disqualify a retailer for program abuse. The Department will give the retailer fifteen (15) days notice before imposing a sanction, except for certain mandatory sanctions, which are required by Regulations to take immediate effect upon receipt of notice by the retailer. The retailer has a right to appeal disqualification or other adverse action that affects retailer participation in the WIC program unless otherwise stated or restricted by the Regulations [7 CFR 246.18].

Failure to pay a fine and/or civil money penalty (CMP). If a retailer does not pay or partially pays a fine and/or CMP within the specified time frames, the Department will disqualify a retailer for the length of the disqualification corresponding to the class of violation for which the fine and/or CMP was assessed in lieu of disqualification.

The Department may disqualify a retailer if the retailer has an imposed Supplemental Nutrition Assistance Program (SNAP), formerly the Food Stamp Program, Civil Money Penalty (CMP) in lieu of disqualification due to a SNAP determination of SNAP participant hardship. A WIC program disqualification due to a SNAP CMP shall correspond to the period for which the retailer would otherwise have been disqualified from SNAP.

5.3 Retailer Violations

Failure to Maintain Minimum WIC Stocking Levels

If during an on-site monitoring visit a retailer is found to be not meeting the minimum stocking requirements for all WIC approved food items the retailer will be notified with a warning letter. This letter will contain the following statements: "Please be aware any retailer that fails to meet the WIC minimum stocking requirements is no longer meeting the terms of the WIC Retailer Agreement. Failure to correct this matter may result in the termination of your WIC Retailer Agreement." (See Section 5 (5.1.6) in the WIC Retailer Agreement)

Once the retailer has received the initial warning letter, a revisit will be performed within thirty (30) days of the initial warning letter. If the minimum stocking requirements are still not being met a second warning letter will be issued. This letter will state that a revisit will be performed within fifteen (15) days of the second warning letter to allow the retailer to

bring the stocking levels into compliance or the WIC Retailer Agreement will be terminated.

Violations

Violations of WIC program policies by retailers are categorized as Class “A”, “B”, “C”, or “D” Violations. Class “A” and “B” Violations are subject to mandatory federal sanctions as defined in 7 CFR 246.12 and shall constitute grounds for disqualification from the WIC program for a minimum of one (1) year and up to permanent disqualification.

The Department shall not accept voluntary withdrawal of a retailer from the WIC program as an alternative to disqualification for Class “A” and Class “B” Violations. Disqualification shall be entered on the record. Non-renewal of this Agreement shall not be used by the Department as an alternative to disqualification. (See copy of contract in Appendix A, 22.1 thru 22.7 and Violations 22 thru 32.)

For the first occurrence of Violations #2, #3, #4, #5, #6, #7, #8, or #9 the standard mandatory sanction will apply.

A second occurrence, of the same violation, for Violations #2, #3, #4, #5, #6, #7, #8, or #9 will result in a double sanction. If the retailer is found in violation a second time, resulting in any of the mandatory sanctions, the sanction for that particular violation will be doubled. Example: Retailer was disqualified for one (1) year for a first violation. If a second violation occurs that requires a standard mandatory sanction of disqualification for three (3) years, the retailer will be disqualified for six (6) years or a CMP will be imposed and doubled.

A third occurrence, of the same violation, for Violations #2, #3, #4, #5, #6, #7, #8, or #9 will result in a double sanction, with no option for a CMP.

Multiple Violations

For multiple violations found during a single investigation the Department shall disqualify a retailer based on the most serious violation. However, all violations will be included in the notice of action. If a mandatory sanction (Violations “A” or “B”) is not upheld in an administrative hearing, the Department will impose a sanction for the next most serious violation listed in the notice of action.

Retailer Fines

The Department will assess the retailer fines for the different classes of agreement violations. These fines will be paid to the Department as part of the required corrective action. Failure to pay the fines levied may result in further sanctions and/or disqualification from the WIC program.

Corrective Action Plan

A corrective action plan (CAP) is prepared by the retailer to address how they have retrained staff and corrected the violation(s) that were found. With any violation where the retailer is required to prepare a corrective

action plan, it must be submitted within specified time stated within the violation letter. Failure to submit the required corrective action plan will result in an immediate fifty dollar (\$50) fine without any further notice or warning. A one-hundred dollar (\$100) fine will be issued for any subsequent failure to submit a corrective action plan. This fine is considered a Class “D” violation.

NOTE: Please be aware that in some cases the retailer’s headquarters is responsible for submitting any fines or reimbursements requested within the violation letter. However, it is the sole responsibility of each store to prepare and submit the corrective action plan.

**Class “A”
Violation**

Violations #1 through #3 are federally mandated sanctions. A Class “A” Violation #1 will result in permanent disqualification effective on the date of the receipt of the notice. No prior notice will be given. Violations #2 and #3 will result in disqualification effective fifteen (15) days from the date of receipt of the notice.

For Violation #1, a Civil Money Penalty (CMP) will be imposed in lieu of disqualification if the Department determines that disqualification would result in inadequate participant access or if the Department determines that the retailer had, at the time of the violation, effective policies and procedures to prevent trafficking, and the ownership of the retailer was not aware of, did not approve of, and was not involved in the conduct of the violation. This determination is at the sole discretion of the Department. [7 CFR 246.12(1)(1)(i)(A) & (B)]

For Violations #2 and #3, a CMP will be imposed in lieu of disqualification if the Department determines that disqualification of the retailer would result in inadequate participant access. [7 CFR 246.12(1)(1)(ix)]

Class “A” Violations #1 through #3:

- #1 Conviction of trafficking (buying or selling WIC food instruments or Cash Value Vouchers (WIC checks), conviction of selling firearms, ammunition, explosives or controlled substances in exchange for WIC checks. **Permanent Disqualification.**
- #2 One incidence of trafficking (buying or selling WIC food instruments or Cash Value Vouchers (WIC checks), selling firearms, ammunition, explosives or controlled substances in exchange for WIC checks. **Length of Disqualification – six (6) years.**
- #3 One incidence of the sale of alcohol, alcoholic beverages or tobacco products in exchange for WIC food instruments or Cash Value Vouchers (WIC checks). **Length of Disqualification – three (3) years.**

**Class “B”
Violation**

Class “B” Violations #4 through #9 are federally mandated sanctions that require a pattern of violations. **A pattern for these violations is defined as three (3) or more instances of the same Class “B” Violation that occur during any federal fiscal year.** For the first occurrence of a pattern of the same Class “B” Violation, the Department will disqualify the retailer or impose a CMP.

For a single Class “B” Violation, #4 through #9, a retailer may be given a written notice of violation. When written notice is given, the Retailer must establish a corrective action plan.

For the second occurrence of the same Class “B” Violation within one (1) year of the first violation, the retailer must establish a corrective action plan that includes the retailer’s attendance at a mandatory training.

Class B Violations #4 through #9:

- #4 Charging WIC customers more for WIC approved foods than non-WIC customers or charging more than the posted shelf price (overcharges).
Length of Disqualification – three (3) years.
- #5 Claiming reimbursement for the sale of any WIC food item that exceeds the store’s documented inventory of that food item for a specific period.
Length of Disqualification – three (3) years.
- #6 Receiving, transacting, and/or redeeming WIC food instruments or Cash Value Vouchers (WIC checks) outside of authorized channels, including the use of an unauthorized retailer and/or an unauthorized person.
Length of Disqualification - three (3) years.
- #7 Charging the program for WIC foods not received by the WIC customer.
Length of Disqualification - three (3) years.
- #8 Providing credit or non-food items (other than alcohol, tobacco, cash, firearms, ammunition, explosives or controlled substances) in exchange for WIC food instruments or Cash Value Vouchers (WIC checks), or in exchange for items purchased with a WIC food instrument or Cash Value Voucher (WIC check). **Length of Disqualification - three (3) years.**
- #9 Providing unauthorized food items in exchange for WIC food instruments or Cash Value Vouchers (WIC checks), including charging for supplemental food provided in excess of those listed on the check.
Length of Disqualification – one (1) year.

**Class “C”
Violation**

Class “C” Violations #10 through #22 are State Agency sanctions. For the first occurrence of a Class “C” Violation, a retailer will be given a written warning notice of violation.

For the second occurrence of the **same** Class “C” Violation a retailer will receive a fifty-dollar (\$50) fine, and must establish a corrective action plan. Failure to comply with the established corrective action plan will require the retailer to attend a mandatory training.

For the third occurrence of the **same** Class “C” Violation within one (1) year of the first violation, the retailer will receive a one hundred dollar (\$100) fine and must establish a corrective action plan that includes the retailer’s attendance at a mandatory training.

When four (4) of the **same** Class “C” Violation occurs within one (1) year of the first warning of the **same** Class “C” violation, the retailer will be disqualified for one (1) year or a CMP will be imposed. A Class “C” Violation sanction will not be added to a mandatory sanction within the same investigation.

A Class “C” sanction may be imposed by the WIC program if a mandatory sanction from the same investigation is not upheld on appeal. Class “C” Violations do not count toward the provisions of mandatory violations for Class “A” or “B”.

Class C Violations #10 through #22:

- #10 Seeking restitution from WIC customers for WIC checks not paid in part or in full, or seeking restitution from WIC customers for claims imposed or refunds demanded by the Department.
- #11 Discriminating against WIC customers due to their race, color, national origin, disability, gender, age, (federal). Discriminating against WIC customers due to their political affiliation or religion (state). Requiring WIC customers to use only certain registers or shop only at certain times.
- #12 Failing to allow the WIC participant to purchase the full amount of WIC food authorized on the WIC checks even if the sales amount exceeds the maximum amount on the WIC check (this does NOT include the checks for fresh and/or frozen fruits and vegetables). This includes turning a participant away, requesting a participant to put items back, requiring them to pay for items in a separate transaction, not giving the participant a Partial Formula Redemption form or requiring the WIC customers to take all the food items even if they choose not to.
- #13 Allowing or requiring the WIC customer to pay cash in whole or part to transact a WIC check or giving change back to the WIC customer for the unused portion of the WIC check during a WIC check transaction.

- #14 Failing to provide for review when requested any of the following, but not limited to: WIC checks, WIC transaction receipts, purchase orders, invoices, or shelf price records, and/or failing to allow full inspection of all store areas.
- #15 Failing to comply with current Missouri Food Code Sanitation requirements.
- #16 Failing to ensure all WIC approved food packaging is in good condition and protects the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.
- #17 Providing WIC approved food during a WIC check transaction that is beyond the expiration, use by or last sale date imprinted on the product packaging by the product's manufacturer or packager.
- #18 Failing to allow monitoring and/or to attend or accept training on program procedures as provided or required by the Department or its designees.
- #19 Failing to maintain adequate inventory records and sales receipts to verify billings made for all WIC food items purchased any time during the current Agreement period.
- #20 Requiring a WIC customer's signature **BEFORE** the actual WIC sales transaction is performed.
- #21 Allowing the participant to refund, substitute or exchange WIC foods other than those foods indicated on the WIC check.
- #22 Purchasing infant formula from sources other than approved and licensed infant formula distributors.

**Class "D"
Violation**

Class "D" Violations #23 through #34 are State Agency sanctions. For the first occurrence of Class "D" Violations, a retailer will be given a written warning notice of violation.

For the second occurrence of the **same** Class "D" Violations a retailer will receive a fifty dollars (\$50) fine and must establish a corrective action plan. Failure to comply with the established corrective action plan will result in the retailer's attendance at a mandatory training.

For the third occurrence of the **same** Class "D" Violations, within one (1) year of the first warning, a retailer shall receive a one hundred dollar (\$100) fine and must establish a corrective action plan, which will include the retailer's attendance at a mandatory training.

When four (4) of the **same** Class "D" Violations occur within a one (1) year period of the first warning of the **same** Class "D" violation, the retailer will be disqualified for one (1) year or a CMP will be imposed.

Violations # 23 through #33:

- #23 Failing to train all employees who handle WIC transactions and ensuring their knowledge regarding WIC program procedures and WIC approved foods and formulas set forth in training materials and manuals provided by the Department.
- #24 Charging sales tax on WIC food items or requiring WIC customers to sign a tax-exempt form or other requirements other than the signing of the WIC check and verifying the signature.
- #25 Issuing any type of IOUs to participants for WIC items not available at the time of the WIC transaction.
- #26 Excessive use (more than twice in any thirty (30) day period) of the Partial WIC Formula Redemption Form for primary contract infant formulas. This includes using the form for WIC items other than infant formulas.
- #27 **Removed as of 6/6/14**
- #28 Failing to submit information requested by the Department within the time specified, including, but not limited to, food price lists, WIC sales receipts, food stocking information, non-WIC food recoupments, fines and corrective action plans.
- #29 Discourteous treatment of a WIC customer by store personnel.
- #30 Prohibiting WIC customers the use of store savings cards, discount coupons or promotion specials (price matching, etc.) to reduce the WIC check amount.
- #31 Limiting WIC customers in their choices of WIC approved foods, e.g., only allowing WIC customers to take certain types of or brands of milk and other WIC products.
- #32 Failing to verify the participant's signature with those on the WIC ID folder after the WIC participant has signed the WIC check at the end of the WIC transaction.
- #33 Failing to enter the date of purchase and/or the purchase price on the WIC check BEFORE the participants signs the WIC check.

WIC Check Errors

The Department has the right to modify payment or to assess a claim for WIC checks transacted for unauthorized foods, other items, or with sales tax charged.

The Department will deny payment and return to the retailer's bank the following WIC checks with errors:

- WIC checks with missing signature.
- Altered WIC checks.
- WIC checks accepted before the "FIRST-DATE-TO-USE."

- WIC checks accepted after the “LAST-DATE-TO-USE.”
- WIC checks submitted for payment more than sixty (60) days after the “FIRST-DATE-TO-USE.”
- WIC checks redeemed for more than the “MAXIMUM PURCHASE PRICE - MUST NOT EXCEED.”
- WIC checks without a date redeemed.
- WIC checks without a WIC Vendor stamp, with an illegible WIC Vendor stamp, or with an invalid Vendor stamp.

The retailer shall receive a written warning for the first month where they have twenty-five (25) or more WIC checks returned. The Department will assess the retailer a fine of fifty dollars (\$50) for the first month in which returned WIC checks exceed twenty-five (25) after a warning has been given.

For the second month after the warning in which returned WIC checks exceed twenty-five (25), the Department will assess a fine of seventy-five dollars (\$75) and the retailer will be required to attend mandatory training in Jefferson City, Missouri.

For the third occurrence during the fiscal year, the Department will assess a one-hundred dollar (\$100) fine, pay a return check fee of \$5.00 for each returned check and the retailer’s store manager and back office manager will be required to attend mandatory training in Jefferson City, Missouri.

For any additional occurrences during the fiscal year the Department will assess a two-hundred dollar (\$200) fine, pay a return check fee of \$10.00 for each returned check or the entire amount of each WIC check whichever is the lower.

False and/or Misleading Sales Information

The Department will immediately terminate the WIC Retailer Agreement disqualifying the retailer for a pattern of providing false and/or misleading sales transaction information to the WIC program. A pattern for this violation is defined as three (3) or more compliance buys where the WIC checks have been altered or false information has been supplied. This includes fraudulent signatures and/or altered checks that were submitted for payment.

A pattern may also be established as a result of the retailer resubmitting four (4) or more previously rejected WIC checks for payment that have been altered or as the result of the findings from a WIC sales receipt audit. For any instance of a retailer resubmitting a previously rejected WIC check for payment that has had its date of use, date of sale or amount of sale altered the retailer will receive a warning and a fine of fifty dollars (\$50). The State sanction for these patterns of violations is a one (1) year Disqualification.

**Civil Money
Penalty (CMP)**

The Department will assess a retailer a CMP in lieu of disqualification only if the disqualification would result in inadequate participant access as defined by the Department. Ten (10) percent of a retailer's average monthly WIC redemptions multiplied by the number of months the retailer would have been disqualified will determine the CMP. The retailer's monthly WIC redemption for the previous six (6) months will be used to determine the average monthly WIC redemption.

For each violation that warrants permanent disqualification, the amount of the CMP shall be \$11,000. If during the course of a single investigation the retailer commits multiple violations, the Department may impose a CMP for each violation. The total amount of CMP for violations found, as part of a single investigation, shall not exceed \$49,000. Amounts are subject to changes in future revisions to the Regulations.

**Recoupment
Claims**

Recoupment claims for improperly transacted WIC checks and/or overcharges will be made by the Department. All recoupment claims must be paid in full. The Department may, at its discretion, establish a repayment schedule for a retailer. No repayment schedule will be offered if intent to defraud or lack of business integrity has been established.

**Failure to pay a
fine, recoupment
and/or Civil
Money Penalty.**

If a retailer does not pay or partially pays a fine and/or CMP within the specified time frames, the Department will disqualify the retailer for the length of the disqualification corresponding to the class of violation for which the fine and/or CMP was assessed in lieu of disqualification.

**Termination
From WIC
Program**

This policy addresses those retailers who have had their WIC Retailer Agreement terminated for non-compliance with the WIC program selection criteria and/or WIC Retailer Agreement. Examples of non-compliance may be, but are not limited to, the following:

- Exceeding the average prices for their pricing peer group;
- Failing to meet the minimum square footage requirements;
- Failing to meet the minimum stocking requirements for WIC approved foods;
- Failing to meet the minimum stocking requirements to be considered a full service grocery;
- Failing to meet any other WIC program selection criteria and/or WIC Retailer Agreement requirements; and
- Having a pattern of providing false or misleading sales transaction information to the WIC program for reimbursement. A pattern is

defined as four (4) or more WIC checks being altered and submitted for payment during the period the retailer is under agreement.

- Non-payment of claims for improperly transacted WIC checks or receipt audits.

Retailers who have their WIC Retailer Agreement terminated are required to wait for one (1) calendar year from the date of their WIC Retailer Agreement termination before re-applying to WIC program.

In the event a retailer is terminated from the WIC program, the Department requires that before the retailer receives a new WIC Retailer Agreement and is re-authorized to accept WIC, the following must occur:

- The retailer applicant must follow the entire application process and submit an updated and complete WIC application.
- The retailer applicant must meet all of the WIC program's current selection criteria.
- An on-site review of the store is performed to ensure the retailer applicant meets the current selection criteria.
- All owners, store management and staff trainers must attend a new Retailer training session in Jefferson City before the WIC Retailer Agreement will be issued.

Identifying Sanctioned Retailers

At the discretion of the Department, the Department may inform all authorized retailers and retailer applicants regarding retailer sanctions which have been imposed, identifying only the retailer's name, address, length of the disqualification or amount of the civil money penalty, and a summary of the reason(s) for such sanction provided in the notice of adverse action. Such information may be disclosed only following the exhaustion of all administrative and judicial review, in which the Department has prevailed, regarding the sanction imposed on the subject retailer, or the time period for requesting such review has expired.

End of Section V: Retailer Compliance