

SECTION II: RETAILER AUTHORIZATION

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| Overview | All full service grocery stores and pharmacies interested in becoming an authorized eWIC retailer must complete an application. The selection criteria used by the Missouri WIC program is designed to ensure that retailer participation in the Missouri WIC program will adequately fulfill the needs of the WIC program participants. |
| <u>2.1 eWIC Retailer Application</u> | |
| Enrollment | The Missouri WIC program may accept applications anytime during the agreement period. Agreements may be issued throughout the current agreement period with all agreements expiring on the same date. However, the Missouri WIC program reserves the right not to accept any new applications during the last 120 days of the current agreement period or during any timeframe identified by the Missouri WIC program. The applicant store is responsible for returning the application in such a manner that the retailer obtains evidence of receipt by the Missouri WIC program. |
| Incomplete Applications | Incomplete applications will be returned one (1) time only to the applicant for completion. Incomplete applications returned to the applicant must be completed and re-submitted to the Missouri WIC program within 30 days from the postmarked date of the returned application. Applicants who fail to return a completed application will not be considered for authorization. |
| Complete Applications | All complete applications received by the Missouri WIC program will be reviewed. The Missouri WIC program will notify applicants within 60 days from receipt of the completed application, whether or not the application was approved. |
| Renewals | The Missouri WIC program will notify all authorized retailers in good standing, prior to the expiration of the current agreement period, and mail each an authorization application. Applications must be returned to the Missouri WIC program in the specified time period. |
| Retailer Responsibilities | All owners, operators, and managers of retail grocery stores and pharmacies that are submitting an application to the program must understand how the Missouri WIC program operates. Compliance with all policies, procedures, and regulations of the Missouri WIC program is the responsibility of each authorized retailer. |
| Issuing Agreements | The Missouri WIC program is not required to issue an agreement to an applicant, a previous retailer whose agreement has expired, or an applicant who is purchasing a store that is currently authorized. It is at the sole discretion of the Missouri WIC program whether an agreement will |

be issued. Pharmacies will only be considered for authorization in areas where there are insufficient numbers of full service grocery stores with pharmacies available to serve WIC participants' needs. This determination is to be made solely by the Missouri WIC program.

eWIC Capable

For participation in the Missouri WIC program, a retailer applicant must demonstrate that their Point of Sale (POS) system can accurately and securely obtain WIC food balances, successfully complete eWIC purchases, and obtain the necessary files such as the Approved Product List (APL), Hot Card List (HCL), Acknowledgement File, and Auto Reconciliation File (ARF). Retailers must also demonstrate that they can submit claim files prior to authorization unless the Missouri WIC program determines that the retailer is necessary for participant access. For this particular situation, retailers with POS systems that are determined not to be eWIC capable will be issued a stand-beside system. Authorized retailers must comply with WIC Operating Rules, standards, and technical requirements established by the USDA Secretary of Agriculture and the Missouri WIC program.

Minimum lane coverage requirements - POS terminals shall be deployed as follows:

- **Stores considered a superstore or supermarket (at least \$2 million annually in food sales).** At a minimum, terminals shall be installed for monthly WIC redemption threshold increments as follows: one (1) terminal for \$0 to \$11,000; two (2) terminals for \$11,001 to \$22,000; three (3) terminals for \$22,001 to \$33,000; and four (4) terminals for \$33,001 and above. The monthly redemption levels used for the installation formula shall be the average redemptions based on a period of up to 12 months of prior redemption. 7 CFR § 246.12(z)(2)(i).
- **Stores not considered a superstore or supermarket.** At a minimum, terminals shall be installed for monthly WIC redemption thresholds as follows: one (1) terminal for \$0 to \$8,000; two (2) terminals for \$8,001 to \$16,000; three (3) terminals for \$16,001 to \$24,000; and four (4) terminals for \$24,001 and above. The monthly redemption levels used for the installation formula shall be the average redemptions based on a period of up to 12 months of prior redemption. 7 CFR § 246.12(z)(2)(ii).

The Missouri WIC program shall not pay ongoing maintenance or operational costs for retailer systems and equipment used to support WIC EBT, unless the retailer is needed for participant access.

2.2 Authorization Process

Authorization Process Each retail store applying for WIC authorization must complete a five (5) - phase process.

Phase One: Retailer applicants must complete and submit all the required application forms to the Missouri WIC program. All information **MUST** be complete. Any incomplete or unsigned documents will **NOT** be accepted. Please ensure required signatures are obtained on all forms and send the completed application to WIC and Nutrition Services, P.O. Box 570, Jefferson City, Missouri 65102-0570. Retailer applicants must complete the direct deposit form provided by the WIC state agency and mail the form to the address provided by the WIC state agency for the eWIC processing contractor.

Phase Two: The application will be reviewed for completeness. Applicants will be notified by letter of missing, incomplete, or unsigned documents.

The Missouri WIC program has **60 days from receipt of the completed application** (and supporting documentation) to review and determine if the store qualifies for the program.

Phase Three: If all required information meets the selection criteria and the application is approved, the Missouri WIC program then conducts an on-site visit to verify the information provided in the application is accurate. The on-site inspection verifies whether or not the store meets all the selection criteria and if the store is eWIC capable. It is the store's responsibility to ensure that their POS is ready for eWIC certification prior to the on-site visit. **NO** agreement will be awarded prior to the visit. The Missouri WIC program does not guarantee an agreement will be offered after the on-site visit. **Note:** The Missouri WIC program is not responsible for providing training to store personnel regarding the WIC EBT operation of the store's POS.

Phase Four: Store owners, managers, or store personnel responsible for training store staff will be required to attend a new retailer training session that will be held at the Missouri WIC state agency location in Jefferson City, Missouri. Failure to attend this training will delay the start of the agreement. **Note: Phases four (4) and five (5) may occur simultaneously.**

Phase Five: The agreement will be sent for the retailer's signature and must be returned to the Missouri WIC program for further processing. When the agreement with the retailer's signature is received, it will be processed for Missouri WIC program signatures. The agreement will be in effect when all signatures have been obtained, training has been received, and the store is notified of the date it may begin to accept eWIC cards.

2.3 Selection Criteria

General Criteria

The Missouri WIC program has established criteria for the selection of retailer applicants to whom agreements authorizing the transaction and redemption of eWIC cards will be awarded. Every authorized retailer must comply with all retailer selection criteria throughout the agreement period.

The Missouri WIC program may reassess a retailer at any time during the agreement period. The WIC state agency will terminate the agreement if the retailer fails to comply with the current retailer selection criteria. The Missouri WIC program reserves the right to make exceptions to the retailer selection criteria to address inadequate participant access.

Defining Who is a Retailer

Retailer applicants must be either a full service grocery store or a pharmacy located within the state of Missouri. Full service grocery stores must stock, at a minimum, all of the following food groups: canned, fresh, and frozen fruit and vegetables, fresh and frozen meats and poultry (luncheon meats and deli meats do not qualify), canned fish, dairy products, cereals, breadstuffs, infant food, and formula, in order to qualify.

Retailer applicants are only authorized to accept eWIC cards in Missouri. A retailer with authorized stores in Missouri may not be co-authorized by other WIC programs outside of Missouri borders. Missouri requires total jurisdictional authority with its retailers. Other states' WIC agreements with Missouri WIC authorized retailers are in conflict with the above requirement.

Pharmacies shall provide only special non-contract infant formulas. Any stores that stock and sell only WIC-approved food are not eligible for authorization as an approved Missouri WIC retailer.

Full Service Stocking

To be considered a full service grocery store in Missouri, a retail store must meet the following stocking requirements for each food group.

1. **Fresh Vegetables:** Minimum of at least five (5) varieties of vegetables.
2. **Fresh Fruit:** Minimum of at least five (5) varieties of fruit.
3. **Frozen Vegetables:** Minimum of at least three (3) varieties of frozen vegetables.
4. **Frozen Fruit:** Minimum of at least two (2) varieties of frozen fruit.

5. **Fresh and Frozen Meats and Poultry:** Minimum of at least three (3) varieties each of beef, lamb, pork or poultry. Beef, lamb, pork, or poultry may be a combination of fresh and frozen. Deli style meats and sausages do not apply.
6. **Canned Fruit:** Minimum of at least three (3) varieties of canned fruit.
7. **Canned Vegetables:** Minimum of at least three (3) varieties of canned vegetables.
8. **Canned Fish:** Minimum of at least two (2) varieties of fish.
9. **Breadstuffs:** Minimum of at least two (2) varieties or brands of bread.

WIC minimum stocking requirements are outlined in Section VI of the eWIC Retailer Manual.

Business Hours

The retailer must be open a minimum of six (6) days per week from 9:00 a.m. to 6:00 p.m. daily. Store hours must be posted.

Business Integrity

The Missouri WIC program will consider business integrity when determining eligibility for selection as a retailer. The Missouri WIC program will not have an agreement with any retailer or applicant if during the last six (6) years they have been disqualified from a USDA Food and Nutrition Services (FNS) program or if any of the retailer applicant's current owners, officers, or managers have had civil judgment entered against them for, or have been convicted of any activity indicating a lack of business integrity. The WIC state agency shall determine which offenses apply. Activities indicating a lack of business integrity include, but are not limited to the following:

- Fraud;
- Antitrust violation;
- Embezzlement, theft, or forgery;
- Bribery;
- Falsification or destruction of records;
- Making false statements or claims;
- Receiving stolen property;
- Obstruction of justice;
- Arson;
- Conspiracy;

- Official records of removal from any federal, state, or local programs;
- Current or former employment in a position of responsibility with a previously or currently authorized retailer determined to be a high-risk retailer by the WIC state agency; or
- Other evidence reflecting on the business integrity and reputation of the applicant.

The retailer must have and maintain a positive compliance history with any and all FNS programs, if currently or formerly a retailer for those programs. Upon request by the Missouri WIC program, the applicant must submit an original Highway Patrol Background Check to verify criminal record history. The cost for a background check is the responsibility of the retailer applicant to pay. The applicant may be required to be fingerprinted in order to complete the background check. The original Highway Patrol Background Check is to have been processed within the past 60 days to be considered valid.

Conflict of Interest

The retailer applicant must be free of any conflict of interest, as defined by applicable state laws, regulations, and policies between the store and the Missouri WIC program or its contracted providers. Conflict of interest includes any activities which would tend to influence a decision, create a bias or prejudice which would favor one side or the other in conflict with the Missouri WIC program or contracted local agency employee's duties, or which conflict with the accomplishment of the Missouri WIC program's mission or goals.

Local agencies may not serve as approved retailers for participants and may not lease out building space to a prospective WIC retailer. This would be considered allowing a retailer preferential treatment and restricting freedom of choice.

Examples of conflict of interest are as follows:

- Solicitation or other influence for personal reasons or benefits.
- Personal relationships, either of an intimate or financial nature.
- Ownership or significant financial interest in a private business, including family member(s) within the fourth degree.
- Membership in or service as a board member of any association or corporation participating in a program regulated or operated by the Missouri WIC program, such as a member of a county board of health.

The Missouri WIC program will terminate the WIC Retailer Agreement if the Missouri WIC program identifies a conflict of interest, as defined by

applicable state laws, regulations, and policies between the retailer and the Missouri WIC program or local agencies.

**Business
Stability**

The retailer must be an established business, open to the public for at least one (1) year in the current location under the new ownership or must own and operate at least one (1) currently authorized WIC retailer store that is in good standing in Missouri. The Missouri WIC program can waive this condition for a current retailer in good standing that is adding an additional location.

Please note that the purchase of an existing authorized store does not negate this requirement. All new owner(s) and retailer applicants must meet this criterion.

The store name on the application must be the same name as registered with the Secretary of State or the owner's full name must appear in the store's name (i.e., John Doe's Grocery). Stores using fictitious names or names other than the owner's full name must be registered with the Secretary of State's office. If registered as a foreign corporation (i.e., incorporated in a state other than Missouri), the owner must identify the state in which the corporation is registered.

Retailer applicants are required to submit their previous work history to identify any previous grocery experience. All ownership in previous grocery operations must include the address(es) of the stores owned, or address(es) where employed and whether the store(s) were authorized to accept WIC and Supplemental Nutrition Assistance Program (SNAP), formerly the Food Stamp program.

Ownership or management of grocery operations within Missouri or other states may be given consideration in meeting this criterion. For the purpose of this criterion, ownership is defined as a person who holds at least 10 percent interest, which may be stock or other forms of security in the grocery operation that includes, but is not limited to, the inventory, equipment, property, and building, or responsibility for leasing equipment, property, and building in order to maintain the full service grocery operation.

For situations where the corporation is selling the stock of a store to the employees, the Missouri WIC program will consider the work history, relating to the grocery industry, of the new ownership in determining whether the business stability criterion has been met. The agreement authorization is at the sole discretion of the Missouri WIC program.

On a case by case basis, the Missouri WIC program will review the following circumstance: An existing store is sold to a new ownership and

those owners do not have any current or previous grocery experience. Consideration may be given if the previous owners or management have agreed to continue to work with the new ownership and have a signed agreement to continue to assist in operating the store for a period of not less than six (6) months. The previous experience of the owners or management will be considered. If the store and the previous ownership or management has a history of noncompliance, then no consideration will be given.

In the event the Missouri WIC program determines an agreement will be issued, it will be for a one (1) year probationary period. This is at the sole discretion of the Missouri WIC program. This probationary agreement may be renewed at the discretion of the WIC program for an additional one (1) year period. The Missouri WIC program is not under any requirement to renew this probationary agreement when it expires.

During this probationary agreement period, the store will be subject to quarterly unannounced on-site monitoring and compliance buys to ensure the store is in compliance. If the new ownership and store are found to be out of compliance during two (2) of the monitoring reviews, the agreement will be terminated in writing.

Pricing

The pricing peer group shall be used for purposes of determining whether a retailer applicant meets the pricing requirements of the program and whether current retailers are exceeding the average peer group prices for the assigned pricing peer group. The retail prices for WIC-approved food must not be greater than the Missouri WIC program's allowable variance from a retailer's pricing peer group average prices. Prices of all WIC-approved food must be posted on the shelves or on the products.

Pricing peer groups are based on geographic classification and business model categories. Geographic classification is based on the 2010 Census Urban and Rural Classification and Urban Area Criteria as defined by the United States Census Bureau. The retailer's zip code population is determined using data from the Missouri Census Data Center. Rural is defined as a zip code having a population of less than 10,000. Urban is defined as a zip code having a population of more than 10,000.

The business model categories are:

1. National Chain – A retailer that sells a wide variety of merchandise but also carries groceries and has outlets in 30 or more states.
2. Regional Chain – A retailer that has 11 or more stores in two (2) or more states.
3. Local Chain – A retailer that has less than 11 stores in one (1) or two (2) states.

4. Independent or Local Grocery Store – A retailer that has less than four (4) stores in one (1) state.
5. Limited Food Store – A retailer chain store that primarily sells a limited variety of food items in four (4) or more states.
6. Pharmacy Only – A pharmacy retailer that is only authorized to sell special formula.
7. Military Commissary – A grocery store operated by the United States Defense Commissary Agency.

Pricing Peer Groups

- **Peer I:** Rural, business model categories 3, 4, and 5 listed above.
- **Peer II:** Urban, business model categories 3, 4, and 5 listed above.
- **Peer III:** Rural, business model categories 1 and 2 listed above.
- **Peer IV:** Urban, business model categories 1 and 2 listed above.
- **Peer V:** Pharmacy only stores.
- **Peer VI:** Military Commissary stores.

Current Retailers: Current retailers will be placed in the pricing peer groups indicated in Section II, page 12 of this manual. Each retailer will, on a biannual basis, have their prices reviewed using the average WIC food prices established for each peer group. The average WIC food prices will be calculated based on the prices submitted by the retailers on the Biannual Food Price Survey. Current retailers are informed of the peer group criteria and which peer group they are assigned to annually.

Any retailer with WIC food prices that are more than 10 percent over the average price for their peer group will be placed on the high risk retailer list. Immediate action will be taken in the form of an on-site monitoring to confirm food prices and to check for any additional areas of noncompliance. Retailers will be required to reduce prices to conform with peer group pricing within 30 days of notification or may be removed from the program.

Retailer Applicants: For retailer applicants, each applicant's food prices will be used in the pricing peer group process. The retailer applicant will be placed within a pricing peer group based on the criteria outlined on pages 11 and 12. If the retailer applicant's store prices for WIC food items are more than 10 percent over the average price for their peer group, the application will not be approved. The applicant will be informed that they have failed to meet the program's selection criteria. The retailer applicant may then adjust pricing and reapply after 180 days.

Minimum Store Square Footage

The retailer's store must have a minimum of 1,000 square feet of space allocated solely for food products, including both WIC and non-WIC food. This square footage does not include non-food areas such as storage areas, meat cutting areas, beer and soda coolers, walk-in coolers, or freezers. Non-food includes, but is not limited to, the following types of items: hair care products, skin care products, detergents, soaps, other cleaning products, bleaches, paper products, plastic products, hardware, kitchenware, light bulbs, pet foods, soft drinks, alcohol, and tobacco.

Minimum Stock of WIC-Approved Food

The store's inventory must meet the minimum stock of WIC-approved food as defined in Section VI of this manual. The store must have adequate inventory to supply WIC customers with enough approved food to fully transact all eWIC cards presented. This includes before, during, and after a heavy volume of WIC redemption activity.

Pharmacies and grocery stores with pharmacies authorized to supply medically prescribed infant formulas do not have stocking requirements for such formulas.

Percentage of Food Sales

Retailer applicants must submit to the Missouri WIC program written sales or financial statements, reports, tax forms, or other records sufficient for establishing gross sales, food sales, and SNAP sales information upon request. Failure to submit requested documents or providing false information will result in the application being denied. Additionally, all alcohol, tobacco, and SNAP sales must be reported.

The retailer applicant must be operating a full service grocery store at the location identified in the application, which has gross food sales of at least 70 percent of total gross grocery receipts, excluding alcohol and tobacco. If either alcohol or tobacco product sales individually or in aggregate comprise 30 percent or more of total gross grocery receipts, an agreement will not be offered. Pharmacies are exempted from this requirement due to their WIC-approved item limitations.

Upon request from the Missouri WIC program, the retailer applicant must supply the following information:

1. The percentage of anticipated food sales by type of payment (i.e., cash, SNAP, WIC, and credit or debit).
2. If the retailer applicant store is already open for business, the total food sales during the last year. To the extent possible, validate the information on the percentage of anticipated food sales by the type of payment or the total food sales against other data sources.

If the retailer applicant (i.e., ownership entity) was previously authorized by the Missouri WIC program, and the Missouri WIC program has the necessary historical data (e.g., annual WIC and SNAP redemptions, total food sales amount, documentation that the store was a WIC-only store, etc.) a review of that information will be performed to determine whether the previously authorized store location(s) was an above 50 percent retailer, as described below.

Above 50 Percent Retailers

Missouri will not authorize any retailers who derive more than 50 percent of their store's sales from the sale of WIC food after December 30, 2005. Any retailer who is found to meet this criteria will be notified that their WIC Retailer Agreement will be terminated unless it is determined that this retailer is needed due to inadequate participant access.

Any retailer or applicant that is denied authorization because the Missouri WIC program determines that they are expected to derive more than 50 percent of their store's sales from WIC food items is eligible for an abbreviated administrative review. The administrative review is solely to determine if the Missouri WIC program properly applied the criteria based on the documentation provided by the retailer applicant.

Restrictions on Retailer Incentive Items

The Missouri WIC program is prohibited from authorizing or making payments to retailers that provide incentive items or other free merchandise, except food or merchandise of nominal value to program participants, unless the retailer provides to the Missouri WIC program proof that the retailer obtained the incentive items or merchandise at no cost.

This incentive item and free merchandise restriction applies to for-profit retailers:

- For which more than 50 percent of the annual revenue of the retailer from the sale of food items consists of revenue from the sale of supplemental food items that are obtained with eWIC cards; or
- Who are new applicants likely to meet the criteria listed above.

WIC Sales Revenue

The retailer must have a minimum of \$300 monthly in WIC sales revenue in order to remain authorized in the Missouri WIC program. Any retailer who fails to maintain this monthly level may be removed from the program and cannot reapply for an authorization agreement for a period of one (1) year from the date of the agreement termination. **Note:** Pharmacies are exempt from this requirement.

WIC Sales Inactivity

Any retailer who fails to have any WIC sales activity for a period of 60 days may be removed from the program. Any retailer removed from the WIC program due to WIC sales inactivity cannot reapply for an

authorization agreement for a period of one (1) year from the date of the agreement termination. **Note:** Pharmacies are exempt from this requirement.

**Pharmacy Only
Retailers**

Pharmacy only retailers are authorized to provide special ordered non-contract infant formulas. They are not authorized to sell any other types of WIC food items, non-primary contract infant formula, or primary contract infant formulas. Primary contract infant formulas are the infant formulas that Missouri has contracted with the formula manufacturer to provide to WIC participants. Primary contract infant formulas are identified in Section VI of the eWIC Retailer Manual and in the WIC Retailer Formula and Food Reference Guide available on the Missouri WIC website at <https://health.mo.gov/living/families/wic/wicretailer/foodlist/>.

**Purchasing
Infant Formula**

Authorized retailers must obtain their infant formula from an approved source found on the Missouri WIC program formula list. This list is available on the Missouri WIC website at <https://health.mo.gov/living/families/wic/pdf/distributorswholesalers.pdf>. This list includes authorized retailers, formula wholesalers, distributors, and manufacturers. No other sources may be used to obtain infant formula.

Sanitation

The retailer must have and maintain a positive sanitation history as evaluated using the Missouri WIC program's current food establishment regulations (Missouri Food Code). A negative sanitation history includes, but is not limited to:

- Temporary closings due to unsanitary conditions.
- Documented noncompliance in correcting unsanitary conditions.
- Current or unmet work orders for corrective action.
- Noncompliance with the current food establishment regulations in five (5) or more critical control points on the most current sanitation inspection.

During the WIC pre-contract on-site store inspection, the following specific items are checked:

- a. Floors are clean, in good repair, and swept free of dirt, grime, filth, and excess rubbish.
- b. Garbage or refuse within the store premises is stored (covered) so that it is inaccessible to insects and rodents.
- c. No evidence of outdated milk, eggs, cheese, or infant formula.
- d. No areas that may create an unsafe environment for customers.

Exceptions The Missouri WIC program reserves the right to make exceptions to (waive) the retailer selection criteria to address inadequate participant access. However, pricing and minimum WIC-approved food stocking requirements are not waivable, per federal regulations.

2.4 WIC Retailer Agreement

Overview The WIC Retailer Agreement is between a named retailer and DHSS. The agreement authorizes a retailer’s participation in the Missouri WIC program under state and federal regulations (USDA Regulations 7 CFR § Part 246.12).

Agreement Period Agreements begin October 1st (the start of the federal fiscal year). Unless otherwise notified by the Missouri WIC program, all agreements expire at midnight on September 30th (the end of the federal fiscal year) of the agreement period. Agreements are normally for a three-year timeframe. New retailers that join the program between these dates will be given an agreement for the remainder of the current agreement period.

No retailer shall accept eWIC cards for redemption prior to the date specified on the WIC Retailer Agreement, or after the expiration date of the WIC Retailer Agreement.

Agreement Category The agreement categories are based on the types of foods for which a retailer is authorized to redeem eWIC cards. The Missouri WIC program will determine the category of agreement offered to a retailer.

| Category | Description |
|----------|--|
| 1 | All WIC-approved food, primary contract infant formulas, and all special infant formulas (full service grocery stores with pharmacies). |
| 2 | All WIC-approved food, primary contract infant formulas, and the option of providing additional special infant formulas available through the retailer’s grocery wholesaler (full service grocery stores without pharmacies). |
| 3 | Special infant formula only. This type of agreement is reserved for pharmacies only . Note: Non-primary contract infant formulas and primary contract infant formulas are not allowed for redemption with this type of contract. |

Agreement Category Change The WIC Retailer Agreement specifies the agreement category of the store and it is not transferable. **Any change to the current agreement category makes the agreement null and void. A new WIC retailer application must be submitted to the Missouri WIC program at least 60 days in advance of the change.** This will allow adequate time to process the agreement application due to the new agreement category.

Ownership Name Change The WIC Retailer Agreement specifies the name of the owner, or if applicable, the name of the partnership or corporation. **Any change to the name of the ownership or the corporation makes the agreement null and void. This includes the addition or removal of an owner and a change of address for the ownership or corporation.**

Store Name Change The WIC Retailer Agreement specifies the name of the store and is not transferable. **Any change of the store name makes the agreement null and void.**

Store Location The WIC Retailer Agreement specifies the location of the store. All Missouri WIC authorized stores must be stationary buildings, fixed in one (1) location at all times. **Any change of the location of a store makes the agreement null and void.**

Change of Ownership A retailer must give 60 days advance notice to the Missouri WIC program of ownership changes. This will allow adequate time to process the agreement application for the new owner. A new WIC Vendor ID number will be required. **Any change of store ownership makes the agreement null and void. This includes the addition or removal of an owner.**

Note: Authorized retailers need to be aware that their current WIC Retailer Agreement cannot be used as an enticement or incentive in order to sell their business. The volume of WIC sales is not guaranteed. WIC sales volume is dependent upon the stocking levels maintained by the store, their customer service, and the desire of the participants to shop at that store.

Additionally, WIC Retailer Agreements are not guaranteed to the new ownership. New owners MUST meet ALL the selection criteria requirements in order to receive an agreement. The determination to issue a WIC Retailer Agreement to a retailer applicant will be made solely by the Missouri WIC program.

Chain Store **Chain stores are not automatically entitled to have all locations approved.** Each location must be evaluated against all selection criteria as if it were a single, independent entity and will be individually listed on the agreement attachment for the corporation agreement.

By signing the WIC Retailer Agreement, a retailer with stores in multiple locations has accepted responsibility for program operations of all participating locations, which are listed on an agreement Attachment B. Notwithstanding, all stores will be assessed, categorized, and treated individually and not as one (1) unit.

Additions or deletions of individual store locations may be requested by retailers, shall be subject to the same review procedures as single location applicants, and shall be effective upon a signed agreement amendment by the Missouri WIC program. The Missouri WIC program will determine termination or disqualification of individual stores, with a 15-day written notice, unless required to be immediate by federal regulations.

Expectations

Before signing the WIC Retailer Agreement, the owner or other person(s) authorized to sign the agreement should carefully read it.

It is extremely important that retailers review the entire agreement and understand all expectations set forth by the Missouri WIC program before signing.

The retailer must comply with the provisions of the agreement and must remain in compliance with all federal and state laws, statutes, policies, procedures, manuals, and regulations of the WIC program, including any changes made during the agreement period. Failure to do so will result in agreement termination. This agreement is not a license or property interest.

Termination

A WIC Retailer Agreement may be terminated by either party, for cause, by giving at least 30 days advance notice to the other party.

Ceasing Operations

A retailer must give a 60-day advance written notice to the Missouri WIC program when ceasing operations.

Renewal

If the retailer wishes to continue to be authorized beyond the period of the current agreement, or if terminated or disqualified, the retailer must reapply for authorization. Neither the Missouri WIC program nor the retailer is under any obligation to renew a WIC Retailer Agreement. Expiration of the agreement is not subject to appeal.

Retailer's Rights

The retailer has the right of appeal when an application to participate is denied, when during the course of the agreement a retailer is terminated or disqualified, or when another adverse action, which affects the retailer's participation in the WIC program, is taken by the Missouri WIC program, with the following exceptions:

- The expiration of an agreement and the Missouri WIC program's determination regarding participant access shall not be subject to administrative review.
- Disqualification of a retailer as a result of disqualification from SNAP shall not be subject to administrative or judicial review.

Retailer Confidentiality Confidential retailer information is any information about a retailer (whether it is obtained from the retailer or another source) that individually identifies the retailer. Information that is not considered confidential is a retailer's name, address, telephone number, website, email address, store type, and authorization status.

2.5 Appeals Process

Appeals Process The Missouri WIC program will use a uniform appeal process to evaluate and respond to all appeal requests from authorized retailers or applicants. The retailer or applicant has the right to appeal the following adverse actions:

1. Denial of authorization,
2. Termination for cause,
3. Disqualification,
4. Fines, and
5. Imposition of a Civil Money Penalty (CMP) in lieu of disqualification.

Retailer Hearing Request The retailer or applicant must provide the Missouri WIC program with a written request for a hearing within 15 days of the receipt of the notice of denial or adverse action. The written request shall describe the action being appealed.

The Missouri WIC program will provide full administrative reviews for all denials of retailer applications and for imposed adverse actions. A retailer or applicant must fully comply with all appeal processes or forfeit appeal rights.

The retailer may submit a written request for an abbreviated administrative review when the Missouri WIC program has terminated the WIC Retailer Agreement because of a change in retailer ownership. The request must be received by the Missouri WIC program within 15 days of the receipt of notice by the retailer.

Retailer May Not Appeal The retailer or applicant does not have the right to appeal the following actions:

1. Expiration of the WIC Retailer Agreement.
2. Disqualification of a retailer as a result of disqualification from SNAP.
3. Validity of the Missouri WIC program's participant access criteria and determinations.

4. The Missouri WIC program's determination of whether or not a retailer had an effective policy to prevent trafficking.
5. The Missouri WIC program's determination whether or not the ownership was not aware of, did not approve of, and was not involved in the violation.
6. Denial of authorization based on state procurement procedures.
7. Disputes regarding eWIC card payments and retailer claims.
8. Disputes regarding eWIC card payments and retailer claims as a result of disqualification from SNAP.
9. The validity and appropriateness of the Missouri WIC program's retailer limiting and selection criteria.
10. The Missouri WIC program's determination to notify a retailer in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction.
11. The Missouri WIC program's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from their list of approved infant formula sources.

Written Notice

The Missouri WIC program shall provide a retailer with written notification of an adverse action at least 15 days prior to the effective date of the action. The written notice will include:

1. The cause or causes for the action.
2. The effective date of the action.
3. The right to appeal the adverse action.

However, when the Missouri WIC program sends a notice of an adverse action as a result of a conviction for trafficking in food instruments, including selling firearms, ammunition, explosives, or controlled substances in exchange for food instruments, the effective date of the adverse action is the date the notice is received by the retailer.

The Missouri WIC program may postpone, at its discretion, the effective date of an adverse action until the decision of a hearing is rendered. Appealing an adverse action does not relieve a retailer permitted to continue participating in the program from the obligation of continued compliance with the terms of all written agreements or contracts with the Missouri WIC program while an appeal is pending.

Appeal Information

The Missouri WIC program will provide the retailer with the following information pertinent to the appeal:

1. No less than ten (10) days advance notice of the time and place for the hearing.
2. The opportunity to reschedule the hearing one (1) time.
3. The opportunity to review all written case records prior to the hearing which relate to the denial of authorization or adverse action, within the limits of 7 CFR § 246.26(e).
4. The opportunity to be represented by counsel if desired.
5. The opportunity to call witnesses.
6. The opportunity to confront and cross-examine adverse witnesses. When it is necessary to protect the identity of Missouri WIC program staff or contractors, such examination shall be conducted behind a protective screen or other device.

The Missouri WIC program will provide an impartial decision maker who will preside over an administrative hearing and submit a written decision to the Missouri WIC program. The decision will be based solely on whether the Missouri WIC program has correctly applied federal and state statutes, regulations, rules, policies, and procedures governing the WIC program according to the evidence presented at the hearing.

**Abbreviated
Review**

For an abbreviated administrative review, a decision maker will render a written decision based solely on whether the Missouri WIC program has correctly applied federal and state statutes, regulations, rules, policies, and procedures governing the program according to the evidence presented at the hearing. The decision maker will be someone other than the person who rendered the initial decision on the action. The decision maker will conduct an abbreviated administrative review for the following:

1. Denial of authorization based on the retailer selection criteria for business integrity or for a current SNAP disqualification or civil money penalty for hardship (7 CFR § Sec. 246.12(g)(3)(ii) and (g)(3)(iii));
2. Denial of authorization based on a Missouri WIC program-established retailer selection criterion if the basis of the denial is a WIC retailer sanction or a SNAP withdrawal of authorization or disqualification (7 CFR § Sec. 246.18(a)(ii)(D));
3. Denial of authorization based on the Missouri WIC program's retailer limiting criteria (7 CFR § Sec. 246.12(g)(2));
4. Denial to accept applications and authorization of a retailer outside the timeframes during which applications are being accepted and processed as established by the Missouri WIC program (Sec. 246.12(g)(8));

5. Termination of an agreement because of a change in ownership, location, or cessation of operations (Sec. 246.12(h)(3)(xviii));
6. Disqualification based on a trafficking conviction (Sec. 246.12(1)(1)(i));
7. Disqualification based on the imposition of a SNAP civil money penalty for hardship (Sec. 246.12(1)(2)(ii));
8. Disqualification or a civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC state agency (Sec. 246.12(1)(2)(iii));
9. A WIC civil money penalty imposed in lieu of disqualification based on a SNAP disqualification (Sec. 246.12(1)(1)(ix)); and
10. The application of the peer group criteria and above-50 percent status determinations, when the application of this criteria is the basis for adverse action (i.e., denial of authorization or termination of agreement for cause) (7 CFR § Sec. 246.18(a)(ii)(C)).

Final Decision

The Missouri WIC program will provide the retailer or applicant with a written notification of the final decision within 90 days from the date of receipt of the retailer’s or applicant’s request for a hearing. The timeframe is only an administrative requirement for the Missouri WIC program and does not provide a basis for overturning the Missouri WIC program’s adverse action if a decision is not made within the specified timeframe.

The Missouri WIC program is not responsible for losses incurred by the retailer as a result of disqualification or denial of an application to participate. If the administrative hearing results in a final decision adverse to the retailer, the appellant may seek judicial review of the decision to the extent authorized by law.

Failure to Appeal

The retailer who fails to appeal or does not appeal within the 15-day period may not contest the subsequent sanctions taken by the Missouri WIC program.

2.6 Food Price Survey

Policy

By signing the WIC Retailer Agreement, the retailer agrees to submit to the Missouri WIC program, on the appropriate form, current shelf prices for WIC-approved food as requested. The retailer is responsible for completing the food price survey in its entirety and returning it to the Missouri WIC program or its designee within the timeframes given.

Use

The information obtained from the food price survey is used to:

1. Determine each store's WIC food prices. Retailers that are found to be above the allowed variance from the store's peer group's average prices are notified. Retailers whose WIC food prices are more than the allowed variance of their assigned peer group's average prices and fail to reduce them to the acceptable level are subject to agreement termination.
2. Set WIC maximum Not-To-Exceed (NTE) prices for food items.
3. Determine appropriate claims during Missouri WIC program eWIC card transactions and reviews.
4. Project program food expenditures for budgeting purposes.

The information is also used to determine the availability of a nutritionally qualified food being considered for Missouri WIC approval. Not all of the food on the food price survey is currently WIC-approved, so the retailer must not use the food price survey as a WIC-approved food list.

2.7 Inadequate Participant Access

Overview

At the Missouri WIC program's discretion, a retailer may be authorized outside of the normal authorization process when a situation of inadequate participant access arises. This may include instances in which a previously authorized retailer sells a store under circumstances that do not permit timely notification of the change in ownership to the Missouri WIC program. Participant access determinations shall be made by, and are solely at the discretion of, the Missouri WIC program.

If the Missouri WIC program determines that WIC program disqualification of a retailer due to SNAP disqualification would result in inadequate WIC program participant access to WIC food, the WIC state agency will assess a CMP in lieu of disqualification. A CMP will not be issued in lieu of disqualification for a third or subsequent sanction. This disqualification is not subject to administrative or judicial review under the WIC program.

Situations causing inadequate participant access may be the result of, but are not limited to:

- Disqualification of an authorized retailer.
- Change of ownership or location of an authorized retailer.
- Disaster or other cause for the loss of, or access to, an authorized retailer.

In urban areas where public transportation is available, WIC participant access may be considered inadequate if any of the following conditions apply:

- A retailer density of less than one (1) per 500 WIC participants.
- WIC participants must travel more than one (1) mile to a retailer.
- Other conditions exist which make a retailer within one (1) mile difficult for WIC participants to access.

In rural areas, participant access may be considered inadequate if any of the following conditions apply:

- There are less than two (2) authorized retailers in the county.
- WIC participants must travel more than 15 miles to a retailer.
- Other conditions exist which makes a retailer within 15 miles difficult for WIC participants to access.

The Missouri WIC program may declare a situation of inadequate participant access to:

- Accommodate special populations (e.g., migrant workers and their families).
- Respond to sudden or unexpected population changes to meet the public health mission of the Missouri WIC program.

End of Section II: Retailer Authorization