

SECTION V: RETAILER COMPLIANCE

Overview

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

The retailer shall comply with the nondiscrimination provisions of federal regulations. No person shall be subject to discrimination on the basis of race, color, national origin, sex, age, disability, and reprisal or retaliation for prior civil right activity. 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.

Because 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

The WIC Retailer Agreement requires the retailer to allow the Missouri WIC program or its designee to monitor the retailer for compliance.

During the course of a monitoring review, the retailer shall provide access to purchase orders or invoices for WIC-approved food, 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 Missouri WIC program. Retailers to be monitored are determined by a number of criteria including, but not limited to, the following: the date the retailer was last monitored, new retailers within the program, compliance with previous monitoring, participant or local agency complaints, legislative requests, other retailer complaints, failure to comply with corrective action plans, failure to maintain pricing within peer groups, and other criteria 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 Missouri WIC program shall perform covert investigations, review of reports that

include WIC sales volume and problem eWIC sales transactions, and inventory audits of retailers to detect possible cases of fraud or abuse of the program.

Door Signs And Shelf Tags

Per the WIC Retailer Agreement, retailers must post a WIC authorization sign at each customer entry door. If a lane is down that would normally be able to conduct eWIC transactions, a sign must be posted to indicate that the lane is temporarily down for eWIC transactions.

Stores that do not have each lane eWIC capable are to post a sign provided by the Missouri WIC program stating “eWIC Accepted Here.” The sign is to assist WIC customers to easily identify the lanes that are able to conduct eWIC transactions.

All WIC-approved food items must have the price displayed for each WIC food item. All WIC-approved food items must be identified with a “WIC-approved” tag on the shelf. The only exception is the fresh produce section due to the differing track sizes and food items stocked in bins which make posting shelf tags difficult.

Routine Monitoring Procedure

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

1. Verify the store name, WIC Vendor ID number, address, and manager of the retailer.
2. Conduct a price survey to verify WIC prices.
3. Review or confirm the current version of the ECR system to detect updates that have not been reported to the Missouri WIC program for certification by the Missouri WIC program.
4. Review or confirm the store’s eWIC training procedures of store personnel.
5. Review eWIC sales transactions to detect any problem transactions at the store prior to the on-site visit.
6. Review WIC food items to ensure that they are clearly marked as WIC-approved and that the store has the minimum stocking requirements for WIC-approved food.
7. Inspect the sanitary conditions of the meat, produce, frozen food, 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.

8. 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 expiration date imprinted on the product packaging by the product's manufacturer or packager.
9. Conduct an educational purchase of WIC food to observe transaction procedures. This procedure may be omitted if an actual eWIC 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 presented. 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 food to the store shelves. The monitor will retain the eWIC sales receipts.
10. Conduct an exit interview once all of the steps have been performed. The monitor will discuss all findings with the manager or designee. The monitor will obtain the printed name and signature of the manager or designee before leaving the store.
11. Review the monitoring report. A letter will be sent to the retailer indicating there were no agreement violations or detailing the agreement violations and the corrective action needed to correct the violations. The retailer will be required to fulfill the corrective action plan identified in the letter.
12. Follow-up will occur to ensure corrective action has taken place. Further follow-up will occur as indicated and necessary.

**Covert Buy
Investigations**

The Missouri WIC program may perform 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 with the WIC program's federal and state rules and regulations as outlined in 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 Missouri WIC program. Once a warning has been issued to the retailer, any further covert buys that result in further non-compliance violation(s) will result in the Missouri WIC program issuing a fine and/or requiring mandatory training relative to that violation class.

The Missouri WIC program has the right to establish a claim and demand refunds for payments already made on improperly transacted or redeemed

eWIC cards, and for charges of more than the retailer's actual selling price. The Missouri WIC program may also issue sanctions that may include fines, termination of the WIC Retailer Agreement, or disqualification from the WIC program.

Inventory Audit

The Missouri WIC program may perform an inventory audit on any retailer at any time during the agreement period. Inventory audits are generally for a 30- to 60-day period of time. A monitor will perform the initial phase of an inventory audit, which entails an inventory count of targeted food items during a routine monitoring. All eWIC sales transactions for the sales that occurred on the day of the first inventory count will be reviewed. At the end of the determined time period, the monitor will return to perform a second inventory count. The monitor will request all invoices for WIC-approved stock ordered and received during the audit time period to determine how much inventory has been sold.

All invoices for stock will be taken to the Missouri WIC program office and compared to all of the redeemed eWIC card transactions for the audit time period. At the completion of the inventory audit, the Missouri WIC program has the right to establish a claim and demand refunds for payments already made on improperly transacted or redeemed eWIC cards, 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 Missouri WIC program may also issue sanctions that may include termination of the WIC Retailer Agreement or disqualification from the WIC program.

eWIC Sales Audit

The Missouri WIC program may perform an eWIC sales transaction audit on any retailer at any time during the agreement period. eWIC sales transaction audits may be for any length of time up to a three (3) year period, but are generally for a 30- to 90-day period. The retailer is required to provide copies of all WIC invoices for the specific time period requested to the Missouri WIC program. These documents are to be supplied within 15 days of the date of the written request.

At the completion of the eWIC sales transaction audit, the Missouri WIC program has the right to establish a claim and demand refunds for payments already made on improperly transacted or redeemed eWIC cards 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.

5.2 Program Abuse

Prosecution, Fines, And Criminal Penalties

A retailer committing fraud or abuse of the WIC program is liable for prosecution under applicable federal, state, and local laws. A retailer that 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)(xxi)].

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., mandatory sanctions: overcharging, receiving, transacting, or redeeming eWIC cards outside authorized channels including the use of an unauthorized retailer 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 eWIC cards; or providing unauthorized food items in exchange for eWIC cards, including charging for supplemental food provided in excess of those authorized on the eWIC card).

Notice will be given to the retailer unless it is determined that notification would compromise the investigation. The Missouri WIC program 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 (1)(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 SNAP, formerly the Food Stamp program. Such disqualification is not subject to administrative or judicial review under the SNAP program.

The Missouri WIC program shall disqualify a retailer for program abuse. The Missouri WIC program will give the retailer 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).

If a retailer does not fully pay a fine or CMP in lieu of disqualification within the specified time frames, the Missouri WIC program will disqualify the retailer for the length of the disqualification corresponding to the class of violation for which the fine or CMP was assessed.

The Missouri WIC program may disqualify a retailer if the retailer has an imposed SNAP 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 time period for which the retailer would otherwise have been disqualified from SNAP.

5.3 Retailer Violations

Failure to Maintain Minimum WIC Stocking Levels

If a retailer does not meet minimum stocking requirements for all WIC approved food items during an on-site monitoring visit, 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.”

Once the retailer has received the initial warning letter, a revisit will be performed within 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 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 are categorized as Class “A”, “B”, “C”, “D”, or “E” 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 Missouri WIC program 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 Missouri WIC program as an alternative to disqualification.

The first occurrence of violation #1 will result in permanent disqualification effective on the date of the receipt of the notice.

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 within the same federal fiscal year, for violations #2, #3, #4, #5, #6, #7, #8, or #9 will result in a double sanction. Example: A retailer was disqualified for three (3) years 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 or subsequent 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 in lieu of a disqualification.

Note: Definitions of violations can be found on pages 44 through 51.

Multiple Violations

If during a single investigation multiple violations are found (may include federal and state violations), the Missouri WIC program shall apply the mandatory sanction for the most serious violation which may include disqualification. All violations will be included in the notice of action. If a mandatory sanction (i.e., violations “A” or “B”) is not upheld in an administrative hearing, the Missouri WIC program will impose a sanction for the next most serious violation listed in the notice of action.

Retailer Fines

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

Recoupment Claims

Recoupment claims for improperly transacted eWIC card purchases and overcharges will be made by the Missouri WIC program. All recoupment claims must be paid in full. The Missouri WIC program 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 or CMP

If a retailer does not fully pay a fine or CMP within the specified time frames, the Missouri WIC program will disqualify the retailer for the length of the disqualification corresponding to the class of violation for which the fine or CMP was assessed in lieu of disqualification.

Corrective Action Plan

When a violation requires a corrective action plan (CAP), the retailer shall prepare a CAP to address how the retailer has retrained staff and corrected the violation(s) that was found and submit it within the time frame stated in the letter. Failure to submit the required CAP will result in an

immediate \$50 fine without any further notice or warning. A \$100 fine will be issued for any subsequent failure to submit a CAP. This fine is considered a Class “D” violation.

Note: In some cases the retailer’s headquarters is responsible for submitting any fines or reimbursements requested within the violation letter. It is the sole responsibility of each store to prepare and submit the CAP.

Federal Violations:

**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 15 days from the date of receipt of the notice.

For violation #1, a CMP will be imposed in lieu of disqualification if the state agency determines that disqualification would result in inadequate participant access or if the state agency 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 state agency. (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 state agency 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), conviction of selling firearms, ammunition, explosives, or controlled substances in exchange for WIC food instruments. **Permanent disqualification.**
- #2 One incidence of trafficking (buying or selling WIC food instruments or Cash Value Vouchers), selling firearms, ammunition, explosives, or controlled substances in exchange for WIC food instruments. **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. **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 (i.e., October 1 - September 30).** For the **first occurrence of a pattern** of the same Class “B” violation, the Missouri WIC program 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 CAP.

For the second occurrence of the same Class “B” violation within the same federal fiscal year, the retailer must establish a CAP that includes the retailer’s attendance at a mandatory training at the Missouri WIC program office located in Jefferson City, Missouri.

Class B Violations #4 through #9:

- #4 Charging WIC customers more for WIC-approved food 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 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 food 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, or in exchange for items purchased with a WIC food instrument or Cash Value Voucher. **Length of disqualification - three (3) years.**
- #9 Providing unauthorized food items in exchange for WIC food instruments or Cash Value Vouchers, including charging for supplemental food provided in excess of those listed on the WIC food instrument. **Length of disqualification - one (1) year.**

State Violations:

Class “C”, “D”, and “E” Violations

Class “C” violations are #10 through #22. Class “D” violations are #23 through #33. Class “E” violations #34 through #62 were added as of October 1, 2019. For the first occurrence of a state violation, a retailer will be given a written warning notice of violation.

For the second occurrence of the **same** state violation within a federal fiscal year (i.e., October 1 - September 30), a retailer will receive a \$25 fine and must establish a CAP. Failure to comply with the established CAP will require the retailer to attend a mandatory training at the Missouri WIC program office located in Jefferson City, Missouri.

For the third occurrence of the **same** state violation within a federal fiscal year, the retailer will receive a \$50 fine and must establish a CAP that includes the retailer’s attendance at a mandatory training at the Missouri WIC program office located in Jefferson City, Missouri.

For the fourth occurrence of the **same** state violation within a federal fiscal year, the retailer will be disqualified for one (1) year or a CMP will be imposed.

A state violation sanction will not be added to a federal violation sanction within the same investigation. A state sanction may be imposed by the WIC program if a federal sanction from the same investigation is not upheld on appeal. State violations do not count toward the provisions of mandatory sanctions for federal violations.

Class “C” Violations #10 through #22:

- #10 Seeking restitution from WIC customers for eWIC purchases not paid in part or in full, or seeking restitution from WIC customers for claims imposed or refunds demanded by the Missouri WIC program.
- #11 Discriminating against WIC customers due to their race, color, national origin, sex, age, age, disability, and reprisal or retaliation for prior civil right activity. (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. Retailers authorized to accept eWIC cards are allowed to have specific lanes that are able to conduct eWIC transactions.
- #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 WIC

customer away, requesting a WIC customer to put items back, requiring them to pay for items in a separate transaction, not giving the WIC customer a Partial WIC 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, 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 food instrument transaction that is beyond the expiration, the use by, or last sale date imprinted on the product packaging by the product's manufacturer or packager.
- #18 Failing to allow monitoring or to attend or accept training on program procedures as provided or required by the state agency 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 WIC customer to refund, substitute, or exchange WIC food other than those food items indicated on the WIC food instrument.
- #22 Purchasing infant formula from sources other than approved and licensed infant formula distributors.

Class “D” 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 food and formula set forth in training materials and manuals provided by the Missouri WIC program.
- #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 30 day period) of the Partial WIC Formula Redemption form for primary contract infant formula. This includes using the form for WIC items other than infant formula.
- #27 **Removed as of June 6, 2014.**
- #28 Failing to submit information requested by the WIC state agency 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 Treating a WIC customer in a discourteous manner by store personnel.
- #30 Prohibiting WIC customers the use of store savings cards, discount coupons, or promotion specials (e.g., price matching) to reduce the WIC sale amount.
- #31 Limiting WIC customers in their choices of WIC-approved food, (e.g., only allowing WIC customers to purchase certain types or brands of milk or other WIC products).
- #32 Failing to verify the WIC customer’s signature with those on the Missouri WIC ID folder after the WIC customer 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 WIC customer signs the WIC check.

Class “E” Violations # 34 through # 60:

- #34 Failing to notify the WIC program and the eWIC processing contractor within 72 hours of any equipment failure or malfunction of the eWIC stand-beside POS device.
- #35 Conducting eWIC transactions in a separate liquor portion of the store or in self-checkout lanes.
- #36 Failing to provide the capability for eWIC cardholders to complete a balance inquiry while in the store. The store must not require a purchase be made in order for a balance inquiry to be completed.
- #37 Failing to provide necessary receipts for the WIC customer to accept, approve, or reject the eWIC transaction.
- #38 Accepting, approving, rejecting, or cancelling an eWIC transaction for the WIC customer by store personnel.
- #39 Failing to process all transaction types that are required by the WIC program. At a minimum, this includes balance inquiry, purchase, void, and reversal.
- #40 Failing to ensure that all UPCs for approved fresh fruit and vegetables are mapped (linked) and identified as WIC-eligible in the store’s POS system.
- #41 Failing to ensure that all PLUs for approved fresh fruit and vegetables are mapped (linked) and identified as WIC eligible in the store’s POS system.
- #42 Failing to comply with the Missouri WIC program’s policies for creating and updating the in-store UPC/PLU category/subcategory table of WIC authorized foods.
- #43 Failing to adhere to the International Federation for Produce Standards (IFPS) PLU codes for the purpose of eWIC claim submission. Failing to train store personnel on the mapping (linking) of IFPS PLU codes or the incorrect use of 4469 and 94469 for systems that are capable of mapping to the correct IFPS PLU code.
- #44 Charging the eWIC cardholder any fee, either directly or indirectly, arising out of or associated with operating, maintaining, or processing eWIC transactions.
- #45 Failing to complete eWIC transactions with no minimum purchase amounts or quantities.

- #46 Failing to scan WIC-eligible items individually.
- #47 Charging eWIC cardholders for authorized food benefits available on an eWIC card food balance and included in the current APL.
- #48 Failing to ensure that only the eWIC cardholder accepts, approves, or rejects the eWIC transaction at the payment terminal.
- #49 Asking for any form of identification in addition to the eWIC card.
- #50 Failing to keep all eWIC cardholder information confidential.
- #51 Manually entering an eWIC cardholder's PIN into the payment terminal in order to process an eWIC transaction.
- #52 Confiscating the eWIC card(s), asking for, or entering the cardholder's PIN.
- #53 Failing to provide the eWIC cardholder with a receipt for each WIC purchase which shows the minimum required information.
- #54 Failing to accept only one (1) eWIC card per sales transaction.
- #55 Demanding that WIC customers purchase the full balance of WIC food items authorized on the eWIC card.
- #56 Scanning any UPC or PLU code that is not affixed to the actual item being purchased by the WIC customer, or scanning any UPC code as a substitute or replacement, or otherwise not actually affixed to the actual item being purchased by the WIC customer. This includes UPC codes from clipboards, codebooks, computers, counters, internet sources, mobile devices, reference sheets, walls, or other food and non-food item sources. This also includes removing a UPC or PLU code from a WIC-approved item and affixing and scanning that code affixed on a non-WIC-approved item.
- #57 Failing to ensure that the price affixed to the scanned UPC code in the POS device is not greater than the price displayed on the package, container, shelf, or other signage in the store for the purchased item. This may be verified by a DHSS representative scanning the actual UPC code affixed to a WIC-approved item and comparing that price to the price marked on the package, container, shelf, or other signage of that same item.
- #58 Failing to update price changes in the POS device including, but not limited to, changes due to sales or other promotions, to ensure compliance with 11.17 and 11.49 in the WIC Retailer Agreement.

- #59 Failing to ensure that the most current APL is downloaded in the store system and is being used for eWIC redemption processing.
- #60 Failing to ensure the store uploads the retailer's eWIC transaction claim files at least once every 48 hours.
- #61 Failing to notify the WIC program of eWIC cards found at the retailer's location.
- #62 Retaining WIC participant eWIC cards at a retailer location for the purpose of conducting eWIC transactions.

False or Misleading Sales Information

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

A pattern may also be established as a result of the retailer resubmitting four (4) or more previously rejected eWIC card transactions for payment that have been altered or as the result of the findings from an eWIC sales transaction audit. For any instance of a retailer resubmitting a previously rejected eWIC card transaction for payment that has had its date of sale or the amount of sale altered, the retailer will receive a warning and a fine of \$50. The state sanction for these patterns of violations is a one (1) year disqualification.

Civil Money Penalty (CMP)

The Missouri WIC program will assess a retailer a CMP in lieu of disqualification only if the disqualification would result in inadequate participant access as defined by the Missouri WIC program. 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. A 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 \$15,692. If during the course of a single investigation the retailer commits multiple violations, the Missouri WIC program may impose a CMP for each violation. The total amount of CMP for violations found, as part of a single investigation, shall not exceed \$62,767. Amounts are subject to changes in future revisions to the regulations.

Termination From WIC Program

This policy addresses those retailers who have had their WIC Retailer Agreement terminated for noncompliance with the WIC program selection criteria and/or WIC Retailer Agreement. Examples of noncompliance 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 food;
- 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;
- 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 previously rejected eWIC card transactions for payment that have been altered or as the result of findings from an eWIC sales transaction audit during the period the retailer is under agreement; and
- Failing to pay claims for improperly transacted eWIC card purchases or eWIC sales transaction audits.

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

In the event a retailer is terminated from the WIC program, the Missouri WIC program 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 submit a complete WIC application and follow the entire application process.
- 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 at the Missouri WIC state agency located in Jefferson City, Missouri before the WIC Retailer Agreement will be issued.

**Identifying
Sanctioned
Retailers**

At the discretion of the Missouri WIC program, the Missouri WIC program 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 following the exhaustion of all administrative and judicial review in which the Missouri WIC program has prevailed regarding the sanction imposed on the subject retailer, or after the time period for requesting such review has expired.

End of Section V: Retailer Compliance