

<p style="text-align: center;">Texas WIC Health and Human Services Commission</p>

Effective November 1, 2020

Policy No. WV:03.0

Participant Access Determination

Purpose

To ensure denying authorization of a vendor outlet or disqualifying a vendor outlet does not result in inadequate participant access to WIC supplemental foods.

Authority

7 CFR Part 246.12

Policy

The State Agency (SA) determines the inadequacy of participant access to WIC supplemental foods prior to the following:

1. Denying authorization of a vendor outlet, or
2. Disqualifying a vendor outlet.

Procedures

- I. Participant access is inadequate when:
 - A. There are no authorized vendor outlets within a 10-mile radius of the vendor in question; and
 - B. The SA found a geographic barrier for participants to access another authorized vendor outlet. Geographic barriers might include, but are not limited to, bridges or interstate highways not open to foot traffic, or steep terrain not accessible by roadways.

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II. Participant Access Determination

A. For Vendor Outlet Authorization and Reauthorization

If a vendor outlet applicant does not meet vendor selection criteria in accordance with Federal regulations and Texas WIC policy WV: 10.0 (see the chart below), but inadequate participant access is determined, then the SA will proceed with the vendor outlet authorization process.

Chart Description: The SA must waive two of the six mandatory Federal vendor selection criteria AND SA-imposed selection criteria to ensure adequate participant access to WIC supplemental foods.

Selection Criteria	Waived
Minimum variety and quantity of supplemental foods (MSR)	No*
Competitive pricing (NTE)	No
Current SNAP disqualification/CMP hardship	Yes
Business integrity	Yes
Incentive items	No
EBT capability	No*
All State Agency-imposed selection criteria	Yes
*Exceptions:	
SA will follow WIC EBT Federal regulations and guidance related to equipping vendors needed for participant access. See Texas WIC Policy WV: 12.0	
The following SA-imposed MSR criteria for the following foods must be waived per Federal regulations:	
FRESH & FROZEN FISH, POULTRY AND MEATS	CANNED FRUIT, CANNED VEGETABLES
Infant Formula: Vendors may elect to not sell formula. However, if the vendor does sell formula, then they must meet Federal MSR requirements for infant formula.	

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B. For Authorized Vendor Outlet Disqualification

1. The SA will proceed with the disqualification process if access to WIC supplemental foods is determined.
2. However, if participant access to WIC supplemental foods is inadequate, then the SA will do the following:

For *mandatory Federal violations*

- a. For the first or second violation of a *mandatory Federal violation* by a vendor outlet, the SA will impose a CMP in lieu of disqualification as specified in Federal regulations and Texas WIC policy WV: 1.0.
- b. If the vendor outlet has committed its third or subsequent mandatory Federal violation, the SA will disqualify the vendor outlet per Federal regulations and Texas WIC policy WV: 1.0.

For *state violations*

- c. The SA will impose a CMP in lieu of disqualification as specified in Federal regulations and Texas WIC policy WV: 1.0. The amount of the CMP is determined using the calculations set forth in Texas WIC policy WV: 1.0 Section XI.A or as specified by the type of violation.

III. In accordance with 7 CFR Part 246.12 (f) (2) (xviii), the validity or appropriateness of the SA's participant access criteria and the SA's determination regarding participant access is not subject to administrative review.

IV. The SA will document the vendor outlet's participant access determination prior to denying vendor authorization, disqualifying a vendor outlet, or imposing a CMP.