

<p><u>I. Renewal of Vendor Cost Containment Certification:</u> Section 246.12(g)(4)(vi) of the WIC regulations requires that at least every three years following initial certification of its vendor cost containment system by FNS, the State agency must submit information to FNS which demonstrates that it continues to meet the requirements of the WIC regulations relative to average payments to above-50-percent vendors. (Cash-value vouchers are not subject to these cost containment requirements and thus are not subject to the cost containment certification requirement.) The existing certifications were effective on October 1, 2006. Thus these certifications now must be renewed, to be effective October 1, 2009, with the exception of State agencies which no longer authorize above-50-percent vendors.</p> <p>The State agencies subject to this requirement need to provide the information specified in section IX.F of the State Plan functional formats as part of their annual State Plan submissions due to their regional offices on August 15, 2008. (Please refer to section IX.F. "Food Delivery: Vendor Cost Containment Certification," excerpt from the State Plan functional formats, attached at the bottom of this Word document.)</p>	<p>WV WIC Policy 8.05</p>	<p>If "not applicable," please answer the following:</p> <p>a) SA authorizes above-50% vendors: Y <input type="checkbox"/> N X</p> <p>b) SA has policy prohibiting above-50% vendors: Y X N <input type="checkbox"/></p>
---	--------------------------------	--

<p><u>II. Vendor Provisions in the Nondiscretionary WIC Certification and General Administrative Provisions Interim Final Rule that Must Be Addressed in the FY 2009 State Plan:</u></p>		
<p>A. <u>Participants Must Be Allowed to Use Food Instruments with Any Authorized Vendor:</u></p> <p>Vendor-specific systems, under which a participant chooses or is assigned to one vendor for all or part of a certification period, are prohibited.</p>	<p>WV WIC Policy 3.05 (F) 3</p>	<p>Participants are provided a vendor listing and may use their drafts at any WV authorized WIC Vendor</p>
<p>B. <u>Requirement for Processing Vendor Applications Outside of Established Timeframes:</u></p> <p>State agencies must include procedures for accepting and processing vendor applications outside the established timeframes if the State agency determines there will be inadequate participant access to the WIC Program, including instances in which a previously authorized vendor sells a store under circumstances that do not permit timely notification to the State agency of the change in ownership.</p> <p>This was already required by §246.12(g)(7) of the WIC regulations (recently redesignated as §246.12(g)(8)); the only new requirement was that this requirement must be reflected in the State Plan. Many State agencies may have previously revised their State Plans because of the former §246.12(g)(7); these State agencies do not need to make any further revisions but should provide a citation indicating the location of the provision in their State Plan.</p>	<p>WV WIC Policy 8.05 (A) 2</p>	<p>It is the practice of the WV WIC Program to monitor vendors that, should they close, could create a participant hardship.</p> <p>This is why we do not have a vendor limiting criteria. If a store closes in an area defined as a hardship area, we will make attempts to recruit other vendors and direct participants to local clinics for additional assistance.</p>

<p><u>III. Manufacturer Cost Containment Provisions in the Miscellaneous Vendor-Related Provisions Final Rule that Must Be Addressed in the FY 2009 State Plan:</u></p> <p>A. Per the new §246.16a(j)(4), cost containment contracts must not require infant formula manufacturers to provide gratis infant formula or other items.</p>	<p>_____</p>	<p>WV is a member of the WSCA consortium which bids the infant formula contract. This language was included in the contract</p>
<p><u>IV. Vendor Provisions in the Miscellaneous Vendor-Related Provisions Final Rule that Must Be Addressed in the FY 2009 State Plan:</u></p>		
<p>A. <u>Abbreviated administrative review procedures may now be used for two additional issues per the new §246.18(a)(1)(ii)(I) and (J):</u></p> <ul style="list-style-type: none"> • A civil money penalty imposed in lieu of disqualification based on a Food Stamp Program disqualification under § 246.12(l)(1)(vii), and • Denial of an application based on a determination of whether an applicant vendor is currently authorized by the Food Stamp Program. <p>Since use of abbreviated administrative review procedures is optional, the State agency is required to address this in its vendor agreement (or in an attachment or referenced authority), which is part of the State Plan, if the State agency chooses to use abbreviated administrative review procedures and chooses to add these subjects to such procedures.</p>	<p>Vendor Agreement</p> <p>_____</p> <p>_____</p>	<p>The current vendor agreement contains language that provides for a civil money penalty in lieu of disqualification. The WV WIC Program currently authorizes vendors who do not participate in the USDA Food Stamp Program.</p>
<p>B. <u>Confidential vendor information does not include the vendor’s telephone number, Web site/e-mail address, and store type:</u></p> <p>Previously, under §246.26(e), confidential vendor information did not include the vendor’s name, address, and authorization status. The final rule has added the vendor’s telephone number, Web site/e-mail address, and store type as information which is also not confidential vendor information.</p>	<p>_____</p> <p>WV WIC Policy 8.05</p>	<p>The West Virginia WIC Program will update Policy 8.05 to reflect this change.</p>
<p>C. <u>Under the new §246.26(e)(4), State agencies may identify sanctioned vendors to other vendors, including some of the related details:</u></p>		<p>The West Virginia WIC Program does</p>

At the discretion of the State agency, the State agency may inform all authorized vendors and vendor applicants regarding vendor sanctions which have been imposed, identifying only the vendor'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 State agency has prevailed, regarding the sanction imposed on the subject vendor, or the time period for requesting such review has expired. Since this provision is optional, the State agency is required to address this in its State Plan only if the State agency chooses to use this option.

not currently provide the identity of sanctioned vendors to other authorized vendors. We will continue to employ this policy at our discretion

<p><u>V. Please list any additional revisions to the vendor and food delivery sections of the FY'09 WIC State Plan below and provide the citation in the column to the right:</u></p> <p>None at this time.</p>		<p>Polices will be revised when forthcoming food package revisions are complete.</p>