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Research Brief

TO: Senator Bill Wielechowski
FROM: Susan Haymes, Legislative Analyst
DATE: January 8, 2014
RE: WIC Requirements for Vendors
LRS Report 14.138

You asked about the criteria used to authorize stores to participate in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Specifically, you wished to know if other states use selection criteria that consider WIC participants' language or cultural needs when determining authorized vendors for a specific area.

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides food assistance, nutrition education, breastfeeding promotion and support, and referrals to health and social services for low-income pregnant, breastfeeding, and postpartum women, as well as to infants and children up to age five. The U.S. Department of Agriculture's Food and Nutrition Service provides funds to the states to provide WIC services.¹ States are responsible for providing the food benefits to participants, ensuring that these funds are properly spent on WIC-authorized foods, and selecting and managing WIC vendors. Participants in the WIC program receive warrants, including Fruit and Vegetable vouchers that prescribe foods they can obtain free of charge at stores that have a written vendor agreement with the WIC program. Vendors may be retail grocery stores, military commissaries, or pharmacies, which may only provide special infant formulas. To become a WIC authorized vendor, each store must apply and meet certain selection criteria established by the state.

While vendor authorization policies may vary somewhat among states, the overall model is the same: the vendor must submit an application, meet the state's selection criteria, have a satisfactory store inspection, stock the required WIC foods and/or infant formulas, and sell them at competitive prices.² Other selection criteria typically used require stores to be authorized to participate in the USDA Food Stamp Program; be open eight hours per day, six days per week; maintain sanitary conditions; and have a history of compliance with WIC rules.

Federal regulations require states to ensure that all WIC participants have adequate access to WIC vendors.³ To this end, each state must authorize a sufficient number and geographic distribution of vendors to ensure reasonable participant convenience and access, the lowest practicable food prices, and effective state oversight and review of the authorized vendors. Most states use a participant-to-vendor ratio to determine the number of vendors authorized in a defined area. For example, Delaware uses a 300:1 ratio, which means in a geographic area with 900 WIC participants, the number of authorized vendors is three.⁴ For geographic areas with populations below 500 participants, no less than two vendors are selected.

¹ In Alaska, the Department of Health and Social Services (DHSS), Division of Public Assistance, administers the WIC program and awards grants to local agencies such as health departments, Native corporations, and social service agencies to provide direct services. More information on Alaska's WIC Program can be accessed at <http://dhss.alaska.gov/dpa/Pages/nutri/wic/default.aspx>.

² Federal law requires that each state assign authorized stores to a peer group. Pricing information submitted by authorized stores is used to compute the peer group maximum reimbursement levels. Vendors must stay within their peer groups Not to Exceed (NTE) Amount for each food item (7 CFR § 246.12[g][4]). Alaska has 13 peer groups. Additionally, because larger chain stores often have a competitive advantage, federal WIC regulations encourage states to consider the impact of vendor authorization decisions on small businesses (7 CFR § 246.12[g][8]).

³ 7 CFR § 246.12. Federal WIC regulations can be accessed at www.ecfr.gov/cgi-bin/text-idx?SID=3fa65f4bcaaa48968e8f091195e0c880&node=7:4.1.1.1.10&rgn=div5.

⁴ Delaware determines geographic areas through an analysis of zip codes of where participants reside. The Delaware WIC Vendor Handbook can be accessed at <http://dhss.delaware.gov/dph/chca/files/wicvendorhandbook.pdf>.

There must be a minimum of 15 WIC participants who live in the community, or are able to travel to the community to shop, for each vendor that is authorized in most areas of Alaska. In addition, DHSS will only authorize vendors in locations that WIC staff can visit to conduct training and monitor compliance.⁵

Many states have adopted policies that allow for extra vendors in certain circumstances that may impact participant access to food benefits. For example, Missouri considers participant access to be inadequate in an urban area if the vendor density is less than one per 500 participants or participants must travel more than one mile to a vendor. In rural areas, inadequate participant access is defined as fewer than two authorized vendors in the county or participants having to travel more than 15 miles to a vendor.⁶ At least three states—Delaware, Idaho, and West Virginia—have policies that specifically allow a vendor to be authorized under circumstances in which WIC participants may have inadequate access to other vendors due to a language barrier.

- In **Delaware** the state agency may find a hardship if 50 or more participants are of a specific nationality whose needs can only be properly served by a specific vendor due to a language barrier.⁷
- In **Idaho** the state may consider as a contributing factor in vendor selection a circumstance in which the vendor serves ten or more WIC participants whose nationality cannot be properly served by another authorized vendor located within the geographic area due to a language barrier.⁸
- In **West Virginia**, the selection criteria may be waived if the vendor serves 10 or more WIC participants whose specific nationality could not be properly served by another authorized vendor located within a reasonable distance because of a language barrier.

Although Missouri policy does not specifically identify a language barrier as a hardship in the selection process, it does allow authorization of a vendor in order to accommodate *special populations* such as migrant workers and their families. Similarly, Pennsylvania WIC regulations define inadequate participant access as ten or more participants whose “specific nationality, ethnicity or religious dietary needs” cannot be served by another WIC authorized store in the area. This provision is only considered, however, when deciding whether to place a store on probation for a program violation.⁹

We hope this is helpful. If you have questions or need additional information, please let us know.

⁵ In Alaska about 20 percent of the statewide caseload, or about 5,000 WIC participants, live in remote locations without access to an approved WIC retail food vendor. An authorized vendor provides these participants with food packages through a Mail Order Vendor (MOV) program. Alaska is the only state with an MOV program. The Alaska WIC Vendor Manual and policies can be accessed at <http://dhss.alaska.gov/dpa/Pages/nutri/wic/vendors/vendorpandp-manuals.aspx>.

⁶ The Missouri WIC Vendor Manual can be accessed at <http://health.mo.gov/living/families/wic/wicvendor/wicvendormanual.php>.

⁷ Delaware Vendor Handbook at p. 4.

⁸ The Idaho WIC Program Vendor Guide can be accessed at www.healthandwelfare.idaho.gov/Portals/0/FoodCashAssistance/WomenInfantsandChildren/Vendor%20Guide_2012%20-%20online%20version.pdf. The information on participant hardship can be found at p. 54.

⁹ 28 PA. Code § 1103.7.