

WIC VENDOR BULLETIN

Volume III No. 2

July – September 2003 Quarter

To: Authorized Vendors of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)

This is the second quarterly WIC Vendor Bulletin for the Federal Fiscal Year 2003. Quarterly bulletins, in effect, update the terms of the WIC Vendor Agreement as set forth in that Agreement in Section 2.t.

Policy/Vendor Agreement Changes Since Last Bulletin

The Texas Department of Health is amending the Texas Administrative Code (TAC) §§31.21 and 31.32-31.36, concerning definitions; selection of vendors for initial authorization and reauthorization for participation; calculation and use of vendor competitive pricing data; the vendor agreement; and right of administrative appeal by a local agency or vendor for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

The amendments to §31.21 add definitions of the terms “licensed distributor or wholesaler” and “price region;” amend the definition of “vendor band” to include characteristics such as store size, number of checkout lanes, and store type; amend the definition of “vendor competitive pricing” by replacing references to “local agency service area” with “price region”; and amend the definition of “vendor outlet” to prohibit simultaneous use of the premises as a residence; and to require that individual WIC-authorized stores devote at least 500 square feet of floor space to business activities, have clearly identified signage, and be accessible to foot traffic from the street.

The amendment to §31.32 adds a new vendor selection criterion requiring vendors that elect to provide infant formula to WIC participants to purchase infant formula directly from licensed wholesalers, distributors, and/or retailers, or directly from the manufacturer. This amendment supports statewide efforts to address the growing problem of theft of infant formula by creating a deterrent for vendors that purchase infant formula from unlicensed sources. Requiring infant formula provided to WIC clients to be purchased from licensed distributors, retailers, or wholesalers will increase the safety of the product by deterring theft for the purpose of resale and reducing the possibility of product or label tampering. Purchases of infant formula made directly from licensed wholesalers, distributors, and/or retailers, or directly from the manufacturer will be in accordance with and as defined by the Health and Safety Code, Chapter 431, the Texas Food, Drug and Cosmetic Act, and the Bureau of Food and Drug Safety program rules. Other changes include replacement of the terms “local agency area” and “local agency” with the term “price region”.

The amendments to §31.33 replace the terms “local agency area” and “local agency” with the term “price region”; provide that a vendor will be disqualified for three months for unauthorized use of the WIC acronym or logo after one written warning; and direct the state agency to accept a civil monetary penalty in lieu of disqualification.

The amendment to §31.34, regarding calculation and use of vendor competitive pricing, incorporates federal regulations that require the state agency to collect overcharges when a vendor fails to comply with competitive pricing requirements and charges prices in excess of those allowed by the selection criteria. Vendors will receive a warning after the first assessment in order to allow them to adjust their pricing. If

prices continue to exceed those defined in the selection criteria at the time of the second assessment within a 12-month period, the vendor agreement will be terminated. Amendments to §31.34 also add “WIC-only stores” as a category if the state agency deems it necessary to reassign vendors to alternate price comparison groups, and replace the terms “local agency service area” and “local agency” with the term “price region.”

The amendment to §31.35, regarding a vendor’s agreement with the state agency, deletes the reference to a probationary vendor agreement, since probationary vendor agreements are no longer issued by WIC.

The amendment to §31.36, regarding the right of a vendor or local agency to appeal, corrects an error of omission when listing the actions defined by federal regulations that are not subject to appeal.

Policy WV:01.0 is being revised to provide for on-site inspections by a city, county, district or state health authority and to provide for a one year disqualification for a vendor who cannot demonstrate that all infant formula purchases were purchased directly from a wholesaler or distributor licensed by the state of Texas or directly from the manufacturer. These revisions are largely the result of new requirements in the TAC §31.32.

Vendor Agreement Processing Activity

Vendor Agreements have been mailed to all active accounts. The Agreements must be fully executed before any claims may be paid for food instruments accepted by vendors after September 30, 2003. Vendor Agreements cannot be executed until all requested materials are returned to the State Office and materials initialed and signed as appropriate.

New Colored WIC Approved Foods Brochure

The State WIC Program has just received from the printer its tri-fold colored WIC approved foods brochure for the Fiscal Year 2004 which commences October 1, 2003. The brochure is similar to those of past years but updated to reflect the changes in foods. As in past years, there will be an overlap for the period October 1 through December 31, 2003 when vendors may honor the foods listed on either brochure or approved foods lists provided by the State WIC Office. Vendors may expect to receive the brochures about the week of September 15th.

If you have any questions or concerns, please contact Debbie Brookshire, WIC Vendor Operations Division Director at 1-800-252-9629 or 512-341-4400, extension 2200.