

**8.03 Participant Access Assessment**

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**POLICY:**

The West Virginia WIC Program shall not discriminate against an applicant or vendor on the basis of race, color, national origin, age, sex, handicap, disability, or other impermissible basis as set forth in applicable state or federal law. Federal regulations require the West Virginia WIC Program ensure that all WIC participants have adequate access to purchase their WIC food benefits.

As a steward of public funds, the West Virginia WIC Program must balance the need for participant access with the duty to obtain the lowest fair prices for WIC foods and to prevent fraud. Hence, the West Virginia WIC Program will establish standards to secure a sufficient number and distribution of vendors which ensure reasonable participant access and permit effective management of the program.

The State WIC Office has the final decision-making authority to establish criteria used to determine what constitutes inadequate participant access. Inadequate participant access is determined and documented on a case-by-case basis when considering whether the West Virginia WIC Program should:

- 1) Retain a retail store in lieu of termination or disqualification;
- 2) Make an authorization exception decision;
- 3) Waive the selection criteria for the initial authorization of an applicant; or,
- 4) Provide financial assistance to obtain eWIC capability (i.e. provide a Point of Sale device for WIC transactions) and assist with ongoing maintenance and operational costs.

**PROCEDURE:**

**A. Determination of Inadequate Participant Access**

- 1a. The State WIC Office shall complete a written Participant Access Assessment (PAA) on a case-by-case basis prior to a retail store being terminated or disqualified for documented program abuse.
- 1b. This type of assessment shall be completed for each new applicant applying for WIC authorization when the established state limiting criteria has been met.
- 1c. A PAA shall be completed at reauthorization for each vendor granted an authorization exception, selection criteria waiver, or a Point of Sale device for WIC transactions during the previous Agreement period. Regardless of the adequacy of participants' access, the State WIC Office shall deny

authorization if, after being provided with one opportunity to correct the deficiency, the Applicant does not meet the criteria for minimum stock.

2. The applicant's original application and related attachments shall be evaluated under the inadequate participant access criteria stated in Section C when determining if denial of authorization for any of the selection criteria (other than minimum stock requirements) would result in inadequate participant access.
3. Any determination finding inadequate participant access shall be made in consultation with the applicable local agency unless inadequate participant access is a result of the geographic location of the next nearest authorized retail store location exceeding three (3) miles driving distance.

To augment the PAA process, it is vital to obtain timely feedback from the local agency whom may have special knowledge about local conditions, such as physical barriers based on their familiarity of the community and on-going association with eligible participants. ***However, feedback such as participants' preference and convenience are not considered legitimate issues for the local agency to raise when providing their PAA response.*** All responses submitted should be objective statements of fact pertaining to potential participant impact.

All information provided as part of this evaluation process shall be complete and accurate. The information contained in the written assessment may be subject to further review by the State WIC Office, retail store managers, a store's legal counsel or other personnel involved in the decision-making process, i.e., adjudication officer.

## **B. Completing a Participant Access Assessment**

Prior to taking denial actions against an applicant the Vendor Operations and Training Specialist completes a Participant Access Assessment (PAA) Form (Attachment #1). Prior to taking termination or disqualification actions against an authorized retail store, the Vendor Authorization and Monitoring Specialist completes a PAA Form. Specific background information related to the affected store is sent (i.e., hard copy or email) directly to the WIC Vendor Manager. Along with the completed PAA Form, a geographic map should be included for his/her review as well as other optional attachments.

The State Vendor Manager or his/her designee shall review and respond within 10 business days of receipt. In the "comments" section of the PAA Form, the State Vendor Manager shall indicate in his/her completed response agreement and/or disagreement to the recommendations being made by the Vendor Operations and Training Specialist or Vendor Authorization and Monitoring Specialist.

The State WIC Office shall retain and maintain originals of all responses and paperwork related to assessments which will be filed in Section Two of the

Vendor paper record. All documents will also be scanned into the Vendor Crossroads (XR) record on the Vendor Authorization Screen.

Under no circumstances should the State WIC Office or any local agency personnel inform a retailer and/or store personnel that administrative action is under consideration. All information contained in the PAA is considered confidential.

**C. Conditions which must exist for Inadequate Participant Access**

To be considered inadequate participant access rather than “participant inconvenience,” one (1) of the following conditions must be indicated:

1. Proximity of another authorized Vendor is more than a three (3) miles driving distance;
2. The Vendor serves ten (10) or more WIC participants whose specific nationality could not be properly served by at least one (1) authorized Vendor within a one (1) mile radius because of a language barrier;
3. Geographic barriers or conditions which would make normal travel burdensome or impossible to another authorized WIC Vendor. Geographic barriers include, but are not limited to: mountains, rivers, bridges or interstate highways not open to foot traffic, highways with limited access for crossing by vehicle or foot, lack of an expressway, and frequent road closings because of bad weather;
4. The participant has a physical disability that cannot be accommodated by alternative Vendors (i.e., the Vendor in question has a wheelchair ramp while other Vendors in the area are not so equipped **and** a wheelchair-bound participant regularly shops at that Vendor). For this condition to apply, the participant with a disability must have done more than half of the participant’s food benefit redemption in the previous three (3) months with this vendor as revealed in eWIC transaction history; or
5. The need to provide adequate service to participants when circumstances make it necessary. Those circumstances may include, but are not limited to, the following:
  - A. New clinic site opening;
  - B. Participant caseload increases;
  - C. New participant population center;
  - D. Store closings, either voluntary or due to catastrophe;
  - or,
  - E. Currently authorized WIC stores cease operation.

**D. Appeal of State Agency Participant Access Assessments**

The State Agency's determination of inadequate participant access is **not** subject to administrative review.

**ATTACHMENTS:**

Participant Access Assessment Form

**REFERENCES:**

WIC Regulations 7 CFR § 246.12(l)(1)(ix)

WIC Regulations 7 CFR § 246.12(l)(8)

WIC Regulations 7 CFR § 246.12(h)(3)(xxx)

WIC Regulations 7 CFR § 246.12(z)(2)(iv)

WIC Regulations 7 CFR § 246.12(aa)(4)(i)

Implementation of the Electronic Benefit Transfer-Related Provisions of PL 111-296