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Food and  
Nutrition  
Service

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**SUBJECT:** WIC Policy Memorandum #2014-3  
Vendor Management: Incentive Items, Vendor Discounts and Coupons

**TO:** Special Nutrition Program Directors  
All Regions

WIC State Agency Directors  
All State Agencies

## **I. Introduction**

The purpose of this memorandum is to provide comprehensive guidance to Special Supplemental Nutrition Program for Women, Infants and Children (WIC) State agencies regarding WIC-authorized vendors' in-store promotions. Approaches to marketing and in-store promotions that have been embraced by vendors must be carefully managed in order to ensure that the WIC Program continues to achieve the highest possible level of program integrity. For the purpose of this memorandum, in-store promotions include the provision of incentive items, as well as the use of vendor discounts and coupons. This guidance represents a compilation of relevant WIC regulatory provisions, previously-issued policy and guidance, and clarifications on aspects of these policies that have prompted recent questions.

This memorandum supersedes the following WIC memoranda:

- WIC Policy Memorandum 2012-3: *Vendors Offering Incentive Items to WIC Participants*
- WIC Policy Memorandum dated May 22, 1990: *Sales Tax on Manufacturer's Discount Coupons*
- WIC Policy Memorandum dated June 6, 1988: *Use of Manufacturers' Specials When Purchasing WIC Foods*

## **II. Definitions**

Definitions of terms that are used throughout this memorandum are provided below.

*Above-50-percent (A50) vendor:* a vendor that derives more than 50 percent of its total annual food sales revenue from WIC food instruments, and new vendor applicants expected to meet this criterion under guidelines approved by the Food and Nutrition Service (FNS)

*Coupon:* a digital or printed voucher that allows a customer to receive a product at a reduced price or at a higher quantity; *coupons* may be provided to customers by vendors, manufacturers or other entities

*In-store promotion:* a sales promotion in which a vendor may offer *incentive items, vendor discounts* or *coupons* in order to increase sales of certain items or to encourage customer loyalty to the vendor

*Incentive item:* an item or service provided by a vendor to attract customers or encourage customer loyalty

*Mixed basket transaction:* a WIC electronic benefits transfer (EBT) transaction that includes WIC and non-WIC items and, therefore, requires more than one tender type; see attachment for information pertaining specifically to discounts in mixed basket transactions

*Regular (non-A50) vendor:* a vendor that does not derive more than 50 percent of its total annual food sales revenue from WIC food instruments; a vendor that is not an *above-50-percent vendor*

*Vendor discount:* an *in-store promotion* that reduces the price or increases the quantity of a given product; a *vendor discount* could also result from the use of a *coupon*

### **III. Equitable Treatment**

Section 246.12(h)(3)(iii) of the Federal WIC Regulations requires WIC-authorized vendors to offer WIC Program participants, parents or caretakers of infant and child participants, and proxies the same courtesies that are offered to other (non-WIC) customers.

WIC-authorized vendors may not treat WIC customers differently from non-WIC customers by excluding them from in-store promotions—this includes disallowing the use of coupons or other vendor discounts in WIC transactions that are allowed in non-WIC transactions. Similarly, WIC-authorized vendors may not treat WIC customers differently by offering them incentive items, vendor discounts, coupons or other promotions that are not offered to non-WIC customers.

Failure to provide the same courtesies to WIC participants, as outlined above, is a violation of Federal WIC Regulations, thereby constituting a vendor violation. State agencies should ensure that WIC-authorized vendors are aware of this requirement and should include a provision outlining the requirement for equitable treatment of WIC participants in their vendor agreements. The consequences of noncompliance with this requirement should be included in State agencies' sanction schedules, as applicable.

### **IV. In-Store Promotions and Regular (Non-A50) Vendors**

As stated in the "Equitable Treatment" section of this memorandum, the Federal WIC Regulations require that WIC-authorized vendors treat program participants with the same

courtesies as other customers with respect to both food prices and services. Allowing participants to take advantage of in-store promotions, such as those outlined below in the “Vendor Discounts by Type” section of this memorandum, is consistent with this policy.

Additionally, allowing WIC participants to use vendor discounts in WIC purchases reinforces wise food purchasing practices, which is a goal of WIC nutrition education. Many State agencies have encouraged the use of coupons and other vendor discounts through their nutrition education programs in order to reach this goal and/or to reduce Program costs.

State agencies should ensure that participants are well-informed about the use of different types of in-store promotions and coupons so that both participants and the WIC Program are able to achieve the maximum benefit from such offers. State agencies should also ensure that both participants and vendors understand the temporary nature of some offers in order to reduce confusion at the point of sale.

Additional information regarding in-store promotions and regular vendors is outlined in the sections below.

#### **A) Vendor Discounts by Type**

Vendor discounts generally provide either a greater quantity (quantity discount) of, or a lower price (price discount) for, a food item. To be consistent with WIC’s equitable treatment policy, State agencies should have policies in place that allow for the use of in-store promotions as well as manufacturers’ coupons.

The most common types of vendor discounts are described below. WIC State agencies that are in the process of developing EBT systems can find technical information regarding these vendor discounts in the EBT/MIS section of the FNS WIC website, specifically in section 4.7.5 of the [WIC EBT Operating Rules](#).

##### **1) Buy One, Get One Free (BOGO)**

In this promotion, the WIC-authorized vendor sells one WIC food item and provides a second identical food item or a different item at no additional cost. For example, a vendor offers a free box of cereal with each box of cereal that is purchased. This is a quantity discount. Using a *buy one, get one free* promotion allows WIC participants to get additional quantities of WIC foods or non-WIC items at no cost. If the free item in a *buy one, get one free* promotion is a WIC food item, it should not be deducted from the participant’s WIC benefits.

##### **2) Buy One, Get One at a Reduced Price**

In this promotion, the WIC vendor sells one WIC food item at full price and sells either a second identical WIC food item or a different food item

at a reduced price. For example, a vendor offers a half price box of cereal with each box of cereal that is purchased at regular price. A *buy one, get one at a reduced price* promotion is a price discount. In a transaction that only includes WIC items, this discount type only applies when the second, reduced price item is a WIC food item and the participant has the item in his or her benefits balance. In this case, the WIC Program would benefit from this vendor discount by being charged the lower price for the second box of cereal.

**3) Free Ounces Added to Food Item by Manufacturer (Bonus Size Items)**

In this promotion, a food manufacturer adds extra ounces to a product at no extra cost to the consumer. For example, instead of offering 16 ounces of cereal in a box, a manufacturer may temporarily offer a bonus size 18 ounce box of cereal at the same price. This promotion is a quantity discount. When a bonus size food item is purchased by a WIC participant, the vendor should redeem the WIC food instrument as if the original size (16 ounce) item were purchased. In order to take advantage of this type of discount, State agencies will need to employ a system of communication with food manufacturers regarding universal product codes (UPCs) for bonus size WIC-approved items.

**4) Transaction Discounts**

In this type of promotion, the WIC vendor applies a fixed amount discount or a discount percentage to the total dollar amount of the purchase. For example, the offer may be for \$10 off or 10% off when \$50 or more in groceries are purchased. A transaction discount is a price discount on the total purchase. In a transaction that only includes WIC items, the Program would benefit from the vendor discount being applied to the transaction.

**5) Store Loyalty/Rewards Cards**

WIC-authorized vendors may provide a card or token that provides additional vendor discounts for frequent or regular customers. WIC participants are not required to use loyalty/rewards cards, nor are WIC-authorized vendors required to scan a “dummy” card for WIC participants who do not have their own cards. Store loyalty/rewards cards may provide a variety of quantity and/or price discounts. These vendor discounts should be processed by vendors as outlined above, according to type.

**6) Manufacturers’ Cents Off Coupons**

Manufacturers’ cents off coupons allow customers to purchase certain items at a lower price. For example, a coupon may offer a price discount

of 50 cents off a box of cereal. In a transaction that only includes WIC items, the value of the coupon would be applied to the WIC transaction, thus benefiting the Program.

**NOTE: Vendor Discounts in a Mixed Basket Transaction**

All of the discounts above may be applied to mixed basket purchases, as long as they are applied in accordance with the rules for processing mixed basket transactions that can be found in the [WIC EBT Operating Rules](#). See attachment for examples of the application of discounts in mixed basket transactions.

**B) Sales Tax on Manufacturers' Coupons**

Pursuant to the Child Nutrition Act at 42 U.S.C.1786(c)(4), State agencies are prohibited from collecting sales taxes on WIC foods. However, some States collect sales tax on manufacturers' coupons. In some cases, this tax only applies to manufacturers' coupons that are used on taxable items and does not, therefore, apply to coupons used for WIC-authorized foods in a WIC transaction. Other States have exempted WIC purchases from the collection of sales tax on manufacturers' coupons through legislation or policy clarification. It is important to remember that manufacturers' coupons are not a WIC benefit; therefore, States are not prohibited from collecting sales tax on them. If a WIC participant uses a coupon when purchasing a WIC food item, sales tax may be collected on the value of the coupon tendered, but must not be collected on the actual WIC food item or paid for by the WIC participant or the WIC Program via the WIC food instrument.

If sales tax must be collected on a manufacturer's coupon in a WIC transaction, the following procedure must be used in order to prevent the Program or participant from being taxed:

- 1) Subtract the sales tax on the coupon from the face value of the coupon
- 2) Subtract the remainder of the coupon value from the retail price of the WIC-authorized food

Using this process, the sales tax is effectively paid by the coupon itself. For example, if sales tax on manufacturers' coupons is 5% and a participant presents a coupon for \$1.00 off a WIC-authorized food that costs \$3.00, the transaction would be processed as follows:

- 1) Sales tax subtracted from face value of coupon:  $\$1.00 - \$0.05 = \$0.95$
- 2) Remainder of coupon value subtracted from retail price of food item:  
 $\$3.00 - \$0.95 = \$2.05$

In this example, the WIC Program would be charged \$2.05 for the food item.

### **C) Cash Back**

Cash back is not permitted as a result of vendor discounts in any WIC transaction. In a transaction that only includes WIC items, all vendor discounts, including manufacturers' coupons, must be applied to the WIC transaction, thus benefiting the Program. In a mixed-basket transaction, vendor discounts must follow the procedures described in the [WIC EBT Operating Rules](#); depending on the specifics of the transaction, the participant, the Program or both would benefit from the vendor discounts, but cash back may not be given to the participant.

## **V. In-Store Promotions and Above-50-Percent (A50) Vendors**

State agencies that choose to authorize above-50-percent vendors must prohibit A50s from offering incentive items or restrict the provision of incentive items to certain types and quantities of items.

Section 246.12(g)(3)(iv) of the Federal WIC regulations prohibits a State agency from authorizing or making payments to an A50 vendor that provides prohibited incentive items. Sections 246.12(g)(3)(iv)(A) and (B) list allowable and prohibited incentive items for A50 vendors. Additionally, [WIC Policy Memorandum 2005-1, Implementation of Certain WIC Vendor Provisions of P.L. 108-265](#), which is available in the Policy section of the FNS WIC website, provides an in-depth discussion of the regulatory requirements regarding incentive items and A50 vendors.

To summarize these regulatory requirements, WIC State agencies may approve incentive items—including food, merchandise or services—that the vendor obtained at no cost or that cost the vendor less than \$2. The vendor may also provide food sales or specials (vendor discounts) that involve no cost or less than \$2 in cost to the vendor. This includes bonus size food items that were obtained from the manufacturer at no cost to the vendor, as well as any of the other types of vendor discounts explained in Section IV of this memorandum, as long as the cost to the vendor of providing these vendor discounts is less than \$2. State agencies may not approve incentive items, including food, merchandise or services that are worth more than \$2, or food sales or specials (vendor discounts) that cost the vendor more than \$2. A50 vendors may not provide multiple incentive items or vendor discounts to customers per visit unless the cumulative value of these items is less than \$2. Additionally, A50 vendors may not provide services that result in a conflict of interest (such as assistance applying for WIC benefits), lottery tickets, cash, or any item that incurs a liability for the WIC Program or violates any Federal, State or local law or regulation.

If a State agency allows A50 vendors to provide incentive items to customers, it must provide written approval or disapproval of requests for permission to provide allowable incentive

items to customers. The State agency must maintain documentation of the approval process, including invoices or similar documents collected from vendors that show that each approved incentive item was either obtained at no cost or at a cost of less than \$2. In order to reduce the administrative burden of this process, the State agency may provide A50 vendors with a list of pre-approved incentive items at the time of authorization.

WIC State agencies may not authorize, continue the authorization of, or make payments to, an A50 vendor that provides or indicates an intention to provide prohibited incentive items to customers. Evidence of such intent includes advertising the availability of prohibited incentive items. If a vendor shows a pattern of providing prohibited incentive items, the State agency should impose the mandatory vendor sanction for this violation: a one-year disqualification in accordance with 7 CFR 246.12(l)(1)(iv).

#### **VI. Conclusion**

WIC State agencies must ensure compliance with WIC Program requirements for authorized vendors relating to in-store promotions, including incentive items, vendor discounts, and coupons. These requirements should be clearly outlined in each State agency's vendor agreement, vendor handbook, policy and procedure manual, and vendor training materials.

If you have any questions about the information contained in this memorandum, please contact your FNS Regional Office.



DEBRA R. WHITFORD  
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Attachment

## **ATTACHMENT: Discounts and Coupons in Mixed Basket Transactions**

WIC Policy Memorandum #2014-3

Vendor Management: Incentive Items, Vendor Discounts and Coupons

In a mixed basket transaction, WIC and non-WIC items are scanned together in one transaction and paid for by the participant using multiple tender types. For example, a mixed basket transaction might include WIC eligible food items, SNAP-eligible food items, and items that are not WIC or SNAP eligible, such as diapers. In a scenario like this, the vendor's computer system would process the transaction, identifying and grouping each of the items by their payment type. If a vendor discount is applicable, the vendor's computer system would then use the rules set forth in the [WIC EBT Operating Rules](#) to apply the discount to the appropriate item or items.

For example, a WIC participant brings a box of WIC-eligible infant cereal, a package of SNAP-eligible ground turkey, and a box of diapers to the register to purchase.

The participant's totals for this example (with no applicable discounts) are as follows:

WIC-eligible infant cereal: \$3 = Total charged to WIC

SNAP-eligible ground turkey: \$5 = Total charged to SNAP

Box of diapers: \$14 = Total charged to participant (cash)

Below are examples of how certain discount types would be processed in the example above.

### **Buy One, Get One at a Reduced Price**

If the vendor has a *buy one, get one at a reduced price* special on the WIC-eligible infant cereal (second box is \$1) and the participant brings a second box of the cereal to the register to purchase, the transaction will be processed as follows:

If the participant has two boxes of cereal on her WIC EBT card,

WIC-eligible infant cereal: \$3 = Charged to WIC

WIC-eligible infant cereal: \$1 = Charged to WIC

SNAP-eligible ground turkey: \$5 = Total charged to SNAP

Box of diapers: \$14 = Total charged to participant (cash)

If the participant has only one box of cereal on her WIC EBT card,

WIC-eligible infant cereal: \$3 = Total charged to WIC

WIC-eligible infant cereal: \$1 = Charged to SNAP

SNAP-eligible ground turkey: \$5 = Charged to SNAP

Box of diapers: \$14 = Total charged to participant (cash)

In the first scenario above, the WIC Program saves \$2 on the participant's second box of cereal. In the second scenario, WIC pays the regular price for the first box of cereal and the participant saves \$2 on the second box of cereal by using only \$1 of her SNAP benefits. If the participant is out of SNAP benefits, the second box of cereal moves to her cash purchase and she pays \$1. It should be noted that, if the participant prefers that the second/reduced

price item not be deducted from her WIC benefits, the vendor must allow for the item to be moved into her SNAP or cash purchase.

### **Transaction Discounts**

Unlike most of the other discount types, transaction discounts are not linked to a particular item or items, but instead apply to the entire purchase price. The recommended procedure for processing a transaction discount is outlined below.

If the vendor offers a transaction discount to buy \$10 worth of groceries, get 10% off, for example, the transaction would be processed as follows:

WIC-eligible infant cereal: \$3 - \$.30 (10% discount) = \$2.70 = Total charged to WIC

WIC CVB-eligible apples: \$3 - \$.30 (10% discount) = \$2.70 = Total charged to WIC CVB

SNAP-eligible ground turkey: \$5 - \$.50 (10% discount) = \$4.50 = Total charged to SNAP

Box of diapers: \$14 - \$1.40 (10% discount) = \$12.60 = Total charged to participant (cash)

In this scenario, the 10% discount is applied proportionally across the transaction. In this \$25 purchase, a discount of \$2.50 was applied such that the WIC Program saved \$.30 cents on the infant cereal, the participant retained the \$.30 discount in her CVB for future fruit and vegetable purchases, the participant retained the \$.50 discount in her SNAP benefits for future purchases, and she saved \$1.40 on her cash purchase of diapers.

### **Manufacturers' Cents Off Coupons**

If the participant presents a coupon for two dollars off a diaper purchase, the coupon is applied to the diapers and the participant, rather than the WIC Program or SNAP, would benefit by saving \$2 on her cash purchase. If that same participant presented a one dollar off coupon for her WIC-eligible infant cereal, that coupon would be applied to the infant cereal being paid for with WIC EBT, and the WIC Program would benefit by being charged \$1 less for the infant cereal.

After presenting coupons for diapers and infant cereal, the participant's totals are as follows:

WIC-eligible infant cereal: \$3 - \$1 (coupon) = \$2 = Total charged to WIC

SNAP-eligible ground turkey: \$5 = Total charged to SNAP

Box of diapers: \$14 - \$2 (coupon) = \$12 = Total charged to participant (cash)