



Food and
Nutrition
Service

December 23, 2016

Park Office
Center

3101 Park
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Alexandria
VA 22302

SUBJECT: WIC Policy Memorandum #2017-2
State Agency Compliance with Split Tender Implementation
Requirements

TO: Regional Directors
Special Nutrition Programs
All Regions

WIC State Agency Program Directors
All WIC State Agencies

The purpose of this memorandum is to provide State agencies operating the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) with information regarding compliance with split tender transactions.

On March 4, 2014, the final rule revising the WIC food packages, Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages, was published in the Federal Register (79 FR 12273). The final rule revised WIC regulations at 7 CFR 246.12(f)(4) to require State agencies to implement procedures allowing a WIC participant, authorized representative or proxy to pay the difference when a fruit or vegetable purchase exceeds the value of the cash-value voucher (CVV). The implementation date for the provision requiring split tender was no earlier than October 1, 2014, and no later than April 1, 2015. This requirement applies to all State agencies, whether operating with Electronic Benefit Transfer (EBT)¹ as the benefit delivery method (i.e., cash-value benefits or CVB) or providing benefits via paper food instruments.

In July 2014, the Food and Nutrition Service (FNS) received a request to extend the required split tender implementation date for State agencies operating *Smart Card (Electronic Benefit Transfer (EBT))* to allow for applicable system updates. In response to this request, FNS granted an extension for the Smart Card State agencies until October 1, 2016. Recently, however, Smart Card EBT WIC State agencies, authorized vendors, and other industry representatives informed FNS that due to technical issues with making the applicable system updates, Smart Card EBT State agencies would not meet the October 1, 2016, extension. It is for this reason that FNS is hereby granting a *final extension* to **October 1, 2017**, as long as the State agency requesting the extension provides a formal corrective action plan. This extension to October 1, 2017,

¹ The final rule (7 CFR 246.12(f)(4)) uses the paper food instrument terminology of “cash-value voucher” or “CVV,” but it also applies to the “cash-value benefit” or CVB, which is the EBT terminology used since vouchers do not exist in EBT.

applies to all State agencies that have not implemented the split tender regulatory requirement.

By **January 31, 2017**, all WIC State agencies must submit to their FNS Regional Office written confirmation that their State agency policy, vendor agreements and authorizations currently support and enforce this requirement. Any WIC State agency not in compliance with the split tender regulatory requirement must provide written acknowledgement of noncompliance along with a corrective action plan to their FNS Regional Office by **January 31, 2017**.

At a minimum, the following information must be included in the corrective action plan:

1. The current status of State agency progress made to support the split tender requirement;
2. A summary (e.g., Project Work Plan) and schedule for implementation, including dates --the final implementation date must be provided, and must be on or before October 1, 2017. By October 1, 2017, all authorized vendors must meet the split tender requirement. The summary must include the following items for EBT/Management Information System (MIS) State agencies:
 - a. Software development and testing status for MIS/EBT State agencies,
 - b. EBT host/MIS updates,
 - c. Dry run certification testing, and
 - d. State agency certification testing for each authorized vendor cash register system;
3. A summary of progress by authorized vendor. This summary must outline the activities accomplished, any barriers impacting the project schedule, and remedial actions applied by the authorized vendor and the State agency to address these barriers; and
4. A copy or copies of any notice of non-compliance or other correspondence sent to authorized vendors that are not processing split tender transactions.

Following the corrective action plan submission, State agencies are required to provide *monthly* status updates by the first of each month on the corrective action plan until the State agency has achieved compliance with 7 CFR 246.12(f)(4). The first *monthly* status submission is due to the FNS Regional Office by **March 1, 2017**.

Enforcement of the Split Tender Requirement

In addition to requiring State agency implementation of split tender transaction procedures, WIC State agency vendor agreement(s) must allow for such transactions in accordance with 7 CFR 246.12(h)(3)(xi). Similarly, WIC State agencies authorizing farmers and farmers' markets must implement split tender transaction procedures and include provisions in their agreements in accordance with 7 CFR 246.12(v)(1)(iv).

To enforce the CVV/CVB split tender requirement, all WIC State agencies should include split tender confirmation in their vendor monitoring and compliance activities. FNS Regional Offices will work with State agencies to ensure updated vendor monitoring and compliance activities include confirmation of authorized vendor compliance with the split tender requirement.

Pursuant to Federal WIC regulations at 7 CFR 246.19, FNS may pursue administrative action, including the withholding of funds, against any State agency that fails to comply by the October 1, 2017, deadline.

Fiscal Year (FY) 2018 WIC State Plan Guidance

The FY 2018 WIC State Plan Guidance will include a requirement for State agencies to provide assurance that all State agency authorized vendors are compliant with the regulatory split tender requirement; and provide guidance on monitoring and the actions the State agency must take to ensure continued compliance.

Summary

FNS requires that all WIC State agencies implement the split tender regulatory requirement by **October 1, 2017**. In addition, all WIC State agencies must submit one of the following to the appropriate FNS Regional Office by **January 31, 2017**:

- If compliant with the split tender regulatory requirement, provide written confirmation that State agency policy, vendor agreements, and authorizations currently support and enforce this requirement; or
- If not in compliance with the split tender requirement, submit written acknowledgement that the State agency does not meet this requirement and a corrective action plan with the required items listed above.

As applicable, after submitting a corrective action plan, WIC State agencies must submit monthly updates to their respective FNS Regional Office by the first of each month beginning March 1, 2017, until full split tender implementation is achieved, i.e., all authorized vendors meet the requirement.

Increasing WIC participants' ability to fully redeem their CVV/CVB for fruits and vegetables is a Program priority. As is necessary, the corrective action plan will ensure all WIC State agencies meet this regulatory provision. FNS may pursue administrative

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action, including the withholding of funds, against any State agency that fails to comply by the October 1, 2017, deadline.

Please contact the appropriate FNS Regional Office with questions regarding this memorandum.

A handwritten signature in black ink that reads "Sarah Widor". The signature is written in a cursive, flowing style.

SARAH WIDOR
Director
Supplemental Food Programs Division

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