

4617.0002 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following terms have the meanings given them in this part.

Subp. 2. **Agency.** "Agency" means:

- A. a public or private, nonprofit health or human service agency;
- B. a community health board established pursuant to Minnesota Statutes, chapter 145A;
- C. an Indian tribe, band, or group recognized by the United States Department of the Interior which operates a health clinic or is provided health services by an IHS service unit; or
- D. an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the United States Department of the Interior, which operates a health clinic or is provided health services by an IHS service unit.

Subp. 2a. [Repealed, 22 SR 266]

Subp. 2a. **Applicant.** "Applicant" has the meaning given in Code of Federal Regulations, title 7, section 246.2, as amended.

Subp. 2b. **Brand.** "Brand" means, with respect to a food product, the name of a specific food product manufactured by a specific manufacturer.

Subp. 2c. [Repealed, 29 SR 1202]

Subp. 3. [Repealed, 29 SR 1202]

Subp. 3a. **Business-related violation.** "Business-related violation" means a criminal conviction of a person, or a civil judgment entered against a person, for violating one or more federal or state antitrust statutes, committing embezzlement, fraud, theft, forgery, bribery, or falsification or destruction of records, making one or more false statements, receiving stolen property, making false claims, or obstruction of justice, whether the conviction or judgment is based on a verdict, plea, stipulation, or settlement agreement.

Subp. 3b. **Business site.** "Business site" means the specific location, as designated by an address, of the real property where a vendor or vendor applicant operates.

Subp. 3c. **Cash-value voucher.** "Cash-value voucher" has the meaning given in Code of Federal Regulations, title 7, section 246.2, as amended. Cash-value voucher includes the legal equivalent of a paper cash-value voucher, such as an electronic form of the cash-value voucher, as defined in the Check 21 Act, Public Law 108-100.

Subp. 3d. **Cashier.** "Cashier" means an individual who accepts a voucher or cash-value voucher on behalf of a vendor.

Subp. 4. [Repealed, 29 SR 1202]

Subp. 5. [Repealed, 29 SR 1202]

Subp. 5a. **Change of vendor location.** "Change of vendor location" means a change in the business site of a vendor by more than one mile.

Subp. 6. [Repealed, 25 SR 805]

Subp. 6a. **Change of vendor ownership.** "Change of vendor ownership" means a sale or other transaction which results in at least one new owner of a vendor.

Subp. 6b. **Check-out lane.** "Check-out lane" means a distinct physical location within the vendor's established business site, with a separate operational cash register capable of generating receipts, where a customer can purchase items.

Subp. 7. [Repealed, 29 SR 1202]

Subp. 7a. **Citrus juice.** "Citrus juice" means orange juice, grapefruit juice, or a combination of orange and grapefruit juices.

Subp. 8. **Clinic town.** "Clinic town" means a town or city in which the local agency distributes vouchers and cash-value vouchers to participants and proxies, or where participants are certified, or both.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Health or the commissioner's designated representative.

Subp. 10. **Community health board.** "Community health board" has the meaning given in Minnesota Statutes, section 145A.02, subdivision 5.

Subp. 11. [Repealed, 19 SR 2089]

Subp. 12. [Repealed, 29 SR 1202]

Subp. 12a. [Repealed, 22 SR 266]

Subp. 12b. **Controlling person.** "Controlling person" means any owner or any person who, directly or indirectly, has the power to direct the management or control the activities of the vendor or vendor applicant, including any officer, manager, director, or general partner of the vendor or vendor applicant.

Subp. 13. [Repealed, 25 SR 805]

Subp. 14. [Repealed, 29 SR 1202]

Subp. 14a. **Disqualification.** "Disqualification" has the meaning given in Code of Federal Regulations, title 7, section 246.2, as amended.

Subp. 14b. **Expired or damaged food.** "Expired or damaged food" means a food item which is in stock and available for purchase after its "sell by," "best if used by," or other date

limiting the sale or use of the food item, is dented, rusted, unlabeled or otherwise defective, has become moldy or otherwise spoiled, or has been recalled by the manufacturer.

Subp. 14c. **Food assistance program.** "Food assistance program" means the Supplemental Nutrition Assistance Program (SNAP), or any other food and consumer service program in Minnesota or in any other state, district, commonwealth or territory of the United States.

Subp. 14d. **Food item.** "Food item" means a specific brand, variety, and size of a food product.

Subp. 14e. **Food product.** "Food product" means any category of food in part 4617.0067, subpart 3, item A or B, and any other category of food which meets the requirements of Code of Federal Regulations, title 7, section 246.10(c), as amended.

Subp. 14f. **Food sales.** "Food sales" has the meaning given in Code of Federal Regulations, title 7, section 246.2, as amended.

Subp. 14g. **Health promotion.** "Health promotion" means activities intended to reduce the prevalence of risk conditions or behaviors of individuals or communities for the purpose of preventing chronic disease and effecting other definable advances in health status. These activities include the coordination or provision of community organization, regulation, targeted screening, and education, as well as informational and other scientifically supported interventions to foster health by affecting related conditions and behaviors.

Subp. 15. **Health service agency.** "Health service agency" means a public or private nonprofit agency whose primary purpose is to provide services designed to improve and protect an individual's health.

Subp. 16. [Repealed, 29 SR 1202]

Subp. 16a. [Repealed, 22 SR 266]

Subp. 17. **Human service agency.** "Human service agency" means a public or private nonprofit agency whose primary purpose is to provide services that include correctional, educational, employment, mental health, or social services.

Subp. 17a. **IHS.** "IHS" means the Indian Health Service of the United States Department of Health and Human Services.

Subp. 17b. **Incentives.** "Incentives" means goods or services, in addition to the food products specified on a voucher or cash-value voucher, offered or provided to a WIC customer who redeems a voucher or cash-value voucher at a particular vendor.

Subp. 18. [Repealed, 29 SR 1202]

Subp. 19. [Repealed, 29 SR 1202]

Subp. 19a. **Infant formula.** "Infant formula" means any food item formulated to replace human breast milk. The term infant formula includes the formulas approved by the commissioner under part 4617.0171 and all special infant formulas.

Subp. 19b. **Launder.** "Launder" means to receive, transact, or redeem a voucher or cash-value voucher outside of authorized channels and includes redeeming a voucher or cash-value voucher accepted at a store that is not authorized as a WIC vendor, accepting a voucher or cash-value voucher at a place other than an established check-out lane at the vendor's business site, accepting or redeeming a voucher or cash-value voucher from any source other than a WIC customer, and accepting a voucher or cash-value voucher that is then redeemed through another vendor.

Subp. 20. [Repealed, 25 SR 805]

Subp. 21. **Local agency.** "Local agency" has the meaning given it in Code of Federal Regulations, title 7, section 246.2, as amended.

Subp. 22. [Repealed, 29 SR 1202]

Subp. 23. **Migrant farmworker.** "Migrant farmworker" has the meaning given it in Code of Federal Regulations, title 7, section 246.2, as amended.

Subp. 24. [Repealed, 29 SR 1202]

Subp. 25. [Repealed, 29 SR 1202]

Subp. 26. [Repealed, 29 SR 1202]

Subp. 27. [Repealed, 29 SR 1202]

Subp. 28. [Repealed, 29 SR 1202]

Subp. 28a. **Owner.** "Owner" means any person who, directly or indirectly, beneficially owns a 20 percent or greater interest in any vendor or vendor applicant, or in any partnership, joint venture, association, corporation, or otherwise organized business entity which directly or indirectly has the power to direct the management or control the activities of the vendor or vendor applicant.

Subp. 28b. [Repealed, 29 SR 1202]

Subp. 28c. [Repealed, 25 SR 555]

Subp. 28d. **Participants.** "Participants" has the meaning given in Code of Federal Regulations, title 7, section 246.2, as amended.

Subp. 29. [Repealed, 29 SR 1202]

Subp. 30. **Person.** "Person" means an individual, partnership, joint venturer, association, corporation or otherwise organized business entity.

Subp. 31. **Pharmacy.** "Pharmacy" means a business in which prescriptions, drugs, medicines, chemicals, and poisons are compounded, dispensed, vended, or retailed.

Subp. 31a. **Pharmacy vendor.** "Pharmacy vendor" means a vendor that is a pharmacy.

Subp. 31b. **Pharmacy vendor applicant.** "Pharmacy vendor applicant" means any pharmacy which has applied to the commissioner to be a pharmacy vendor, including any currently authorized pharmacy vendor which has applied to continue as a pharmacy vendor and any pharmacy which has applied for an immediate vendor agreement under part 4617.0066, subpart 3.

Subp. 32. [Repealed, 29 SR 1202]

Subp. 33. [Repealed, 25 SR 805]

Subp. 34. [Repealed, 29 SR 1202]

Subp. 35. [Repealed, 29 SR 1202]

Subp. 36. [Repealed, 29 SR 1202]

Subp. 36a. **Provide unauthorized food.** "Provide unauthorized food" means:

A. to provide any food other than WIC-allowed food in exchange for a voucher or cash-value voucher;

B. to provide, in exchange for a voucher or cash-value voucher, any WIC-allowed food that is not listed on the voucher or cash-value voucher;

C. to provide, as a substitute for any WIC-allowed food listed on a voucher or cash-value voucher, an excess quantity of another WIC-allowed food listed on the voucher or cash-value voucher; or

D. to provide, in exchange for a voucher or cash-value voucher, and to charge the WIC program for, more WIC-allowed food than is listed on the voucher or cash-value voucher.

Subp. 37. **Proxy.** "Proxy" has the meaning given in Code of Federal Regulations, title 7, section 246.2, as amended.

Subp. 37a. **Rain check.** "Rain check" means a credit provided by a vendor to a WIC customer in exchange for a voucher or cash-value voucher, if the credit can only be used to purchase one or more specific food items listed on the voucher or cash-value voucher but not received by the WIC customer.

Subp. 37b. **Reauthorization application.** "Reauthorization application" means a vendor application submitted to the commissioner by a currently authorized vendor that is applying to continue as a vendor.

Subp. 37c. [Repealed, 29 SR 1202]

Subp. 37d. [Repealed, 29 SR 1202]

Subp. 38. [Repealed, 29 SR 1202]

Subp. 39. [Repealed, 22 SR 266]

Subp. 39a. **Retail food store.** "Retail food store" means a store which sells food at retail directly to consumers other than WIC customers.

Subp. 40. **Retail food vendor.** "Retail food vendor" means a vendor that is a retail food store.

Subp. 40a. [Repealed, 22 SR 266]

Subp. 40b. **Retail food vendor applicant.** "Retail food vendor applicant" means any retail food store which has applied to the commissioner to be a retail food vendor, including any currently authorized retail food vendor which has applied to continue as a retail food vendor and any retail food store which has applied for an immediate vendor agreement under part 4617.0066, subpart 3.

Subp. 40c. **Single investigation.** "Single investigation" means all compliance buys, monitoring visits, record reviews, and other investigatory activities conducted in connection with a store or pharmacy until the investigation is complete. The investigation is complete on the earlier of: (1) the date the investigatory file is closed; (2) the date the store or pharmacy is disqualified from the WIC program; (3) the date the commissioner assesses a civil money penalty against the store or pharmacy; (4) the date the commissioner denies the vendor application of the store or pharmacy; or (5) the date the commissioner terminates the vendor agreement of the store or pharmacy.

Subp. 40d. **Special infant formula.** "Special infant formula" means any infant formula specified on a voucher, other than the infant formula approved by the commissioner under part 4617.0171.

Subp. 40e. **Special population.** "Special population" means members of populations as defined in Code of Federal Regulations, title 7, section 246.2, as amended.

Subp. 40f. **Tier 1 county.** "Tier 1 county" means a Minnesota county in which the total population is 250,000 or more according to the most recent Minnesota or United States census or estimated update as compiled by the state demographer.

Subp. 40g. **Tier 2 county.** "Tier 2 county" means a Minnesota county in which the total population is less than 250,000 according to the most recent Minnesota or United States census or estimated update as compiled by the state demographer.

Subp. 41. [Repealed, 29 SR 1202]

Subp. 42. **Vendor.** "Vendor" has the meaning given in Code of Federal Regulations, title 7, section 246.2, as amended.

Subp. 42a. **Vendor applicant.** "Vendor applicant" means a business entity that operates a retail food store, a pharmacy, or a store which is both a retail food store and pharmacy, if the business entity has applied to the commissioner for that particular store to be a vendor. "Vendor applicant" includes any currently authorized vendor which has applied to continue as a vendor at the same location and any business entity which has applied for an immediate vendor agreement under part 4617.0066, subpart 3.

Subp. 42b. **Vendor application.** "Vendor application" means all information and documentation submitted to the commissioner by a vendor applicant under part 4617.0065 or 4617.0066, subpart 3.

Subp. 42c. **Vendor overcharge.** "Vendor overcharge" has the meaning given in Code of Federal Regulations, title 7, section 246.2, as amended.

Subp. 43. **Vendor stamp.** "Vendor stamp" means an ink stamp issued to a vendor by the commissioner with a unique number identifying that vendor, which the vendor uses under part 4617.0070.

Subp. 44. **Voucher.** "Voucher" means a document which is authorized by the commissioner for use by a WIC customer to obtain WIC-approved foods from a vendor, and which may be deposited in the vendor's account at an established financial institution. Voucher includes the legal equivalent of a paper voucher, such as an electronic form of the voucher, as defined in the Check 21 Act, Public Law 108-100.

Subp. 44a. [Repealed, 22 SR 266]

Subp. 44b. **WIC-allowed foods.** "WIC-allowed foods" means special infant formula, and foods approved by the commissioner under this chapter for purchase with WIC vouchers and cash-value vouchers.

Subp. 44c. [Repealed, 25 SR 555]

Subp. 44d. **WIC cashier trainer.** "WIC cashier trainer" means the employee or other representative of a vendor who is, or, in the case of a vendor applicant, who will be, responsible for training the vendor's cashiers in properly transacting WIC vouchers and cash-value vouchers.

Subp. 44e. **WIC customer.** "WIC customer" means a participant in the WIC program, a proxy, or a representative of the commissioner posing as a participant or proxy.

Subp. 44f. **WIC food center.** "WIC food center" means a site at which the commissioner or a nonprofit agent of the commissioner distributes WIC-allowed foods directly to WIC customers under Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 246, subpart E, section 246.12, paragraph (n), as amended.

Subp. 44g. **WIC ID folder.** "WIC ID folder" means a document issued by a local agency to a participant or proxy which contains eligibility information on a participant

and contains the signatures of all individuals authorized to sign vouchers and cash-value vouchers issued to the participant.

Subp. 45. **WIC program.** "WIC program" means the Special Supplemental Nutrition Program for Women, Infants, and Children administered by the United States Department of Agriculture under United States Code, title 42, section 1786, as amended.

Subp. 46. **WIC sales.** "WIC sales" means all sales by a vendor for which the vendor receives payment in the form of a WIC voucher or a cash-value voucher.

Statutory Authority: *MS s 144.11; 144.12; 145.891 to 145.897*

History: *13 SR 1190; 14 SR 164; L 1991 c 106 s 6; 19 SR 2089; 22 SR 266; 25 SR 555; 25 SR 805; 29 SR 1202; 34 SR 790*

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