

3701-42-04 WIC vendor contract.

- (A) An applicant is not authorized to act as a vendor without a valid contract executed pursuant to rule 3701-42-03 of the Administrative Code. Vendors whose contracts have expired and applicants who have not yet received authorization from the director to be vendors, shall not accept WIC nutrition cards. The department shall not reimburse for WIC transactions that occurred before a contract becomes effective or after the contract expires.
- (B) A contract executed by the director and a vendor pursuant to rule 3701-42-03 of the Administrative Code shall conform with the provisions of 7 C.F.R. 246.12 (in effect January 1, 2011) and the applicable provisions of this chapter of the Administrative Code. The contract shall list all locations in the applicable region in which the vendor is authorized to accept WIC nutrition cards.
- (C) The director may amend the contract at any time to include or incorporate additional provisions that are required because of changes in federal or state statute, regulation or rule or to improve the administration, operation, or evaluation of the WIC program. The director shall notify vendors of any such amendment at least thirty days in advance of the effective date. A vendor may accept the amendment or may terminate the contract voluntarily as provided in paragraph (H) of this rule. A vendor that does not voluntarily terminate the contract after receiving notification under this paragraph is deemed to have accepted the amendment. A vendor may not appeal an amendment to the contract.
- (D) A contract is not assignable or transferable. A vendor shall not sell, assign, or transfer in any manner its rights under the contract. A sale, assignment, or transfer of a contract shall render the contract void.
- (E) A vendor or its authorized representative, which may include the purchaser or operator of the location, shall notify the department in writing, no less than thirty-days prior to any scheduled change of ownership or operation, including, but not limited to: a sale, lease, transfer, bankruptcy, dissolution, or cessation of business, or change of store location. If any of the listed events are not scheduled, the vendor must notify the department, in writing, within thirty days after the occurrence. A "change of ownership or operation" also includes the death of a sole proprietor, the transfer of a controlling interest in, or voluntary or involuntary dissolution of, a vendor that is a corporation, limited liability company, partnership, cooperative association, or other business entity.
- (F) A vendor shall cease transacting WIC nutrition cards immediately upon the effective date of a change of ownership or operation unless otherwise authorized by the director in writing. Upon notice or other information that the location is the subject of a change of ownership or operation, the director shall terminate the vendor contract and shall not reimburse vendor for WIC nutrition card transactions that occurred on or after the effective date of termination.
- (G) If a vendor does not provide the department with notice of a change of ownership within thirty days from the effective date of the change of ownership, but continues to transact WIC nutrition cards, the director shall not accept a WIC application for processing from the applicant for that location for three years in accordance with paragraph (D) of rule 3701-42-03 of the Administrative Code. In lieu of not

processing an application for three years, the director may require the vendor to reimburse the department any monies paid to the vendor while not authorized or impose a civil money penalty not to exceed two thousand five hundred dollars, whichever is greater.

- (H) A vendor may voluntarily terminate the contract for any reason. The vendor shall notify the department in writing at least fifteen days before the effective date of termination. If the vendor owes the department any outstanding payment, it shall pay the amount due in full before the effective date of termination. The department may obtain the amount due by withholding current or future payments that otherwise would be due to the vendor.
- (I) Voluntary termination by a vendor shall not affect any action by the director to disqualify or otherwise sanction the vendor pursuant to rule 3701-42-08 of the Administrative Code, or to deny authorization pursuant to rule 3701-42-03 of the Administrative Code.
- (J) The director may terminate the contract if state or federal funds are not appropriated or otherwise become unavailable. The director shall notify the vendor in writing, by certified mail, return receipt requested or other delivery method that verifies receipt, at least fifteen days before the effective date of the termination.
- (K) The director may terminate a contract if the vendor provided false information in connection with its contract or application for authorization.
- (L) The director will terminate the vendor's contract if the Ohio secretary of state cancels a vendor's articles of incorporation.

Effective: 09/16/2016

Five Year Review (FYR) Dates: 06/30/2016 and 09/15/2021

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Date

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