



# NATIONAL WIC ASSOCIATION ONLINE WIC SHOPPING: FREQUENTLY ASKED QUESTIONS

## NWA'S MISSION

The National WIC Association (NWA) provides its members with tools and leadership to expand and sustain effective nutrition services for mothers and young children.

## MODERNIZING WIC SHOPPING

For nearly fifty years, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) has improved nutrition and health outcomes for new parents, babies, and young children. WIC serves over 6.2 million people, including nearly half of all infants in the United States.

The WIC shopping experience is inequitable compared to the retail experience of SNAP households and the general shopping public. Swift action is needed to provide modern and accessible options for 6.2 million WIC participants and their families.

### WHAT ARE KEY PRIORITIES THAT CAN BE ACCOMPLISHED IN A WIC ONLINE SHOPPING RULE?

WIC vendor regulations have not been fully updated since the paper voucher era. An online shopping rulemaking provides the opportunity to modernize vendor management practices, allowing for a broader range of authorized vendors, future innovative transaction technologies, and a more flexible WIC benefit that can adapt to online shopping platforms and home delivery models.



## RULEMAKING PROCESS

### WHEN WILL USDA REVISE THE WIC ONLINE SHOPPING RULES?

Revising WIC's vendor regulations requires a formal rulemaking process by the U.S. Department of Agriculture (USDA). This process is expected to begin in April 2022. USDA is likely to issue a *proposed rule*, which would begin a *public comment period* - an opportunity for WIC stakeholders to share their views about each facet of the proposed changes to vendor regulations. After the public comment period closes, USDA will review the input from WIC stakeholders and take steps to finalize new regulations. When the *final rule* is issued, WIC vendor management will be governed by a new framework.

### DO ONLINE SHOPPING PROJECTS NEED TO WAIT FOR THE RULES TO CHANGE?

No. Under the American Rescue Plan Act, USDA has waiver authority to relax regulations that inhibit redemption of WIC benefits. Both USDA-funded projects and state-driven innovations are leveraging waiver authority to explore online ordering models and other shopping innovations.

### DOES OFFERING A PUBLIC COMMENT DURING THE FOOD PACKAGE PROCESS COUNT AS LOBBYING ACTIVITY?

No. Federal lobbying restrictions are limited to legislative activity. The WIC online shopping rule is a regulatory process. Stakeholder input is not only permitted, but highly encouraged to assure a reasoned decision-making process.



## USDA ACTIVITIES TO ADVANCE ONLINE SHOPPING

### WHY WAS SNAP ABLE TO SCALE UP ONLINE SHOPPING DURING THE COVID-19 PANDEMIC?

During the early months of the COVID-19 pandemic, USDA expanded an ongoing pilot project in the Supplemental Nutrition Assistance Program (SNAP). Within weeks, over 90% of SNAP households had access to a vendor with an online shopping platform. The swift rollout of online SNAP options was only possible after nearly six years of thoughtful planning.

Pilot projects to explore online shopping in SNAP were first authorized in the 2014 Farm Bill. WIC has not had a similar reauthorization since the Healthy, Hunger-Free Kids Act of 2010, when WIC providers were required to transition to electronic-benefit transfer (EBT). Because of this legislative directive, SNAP had the regulatory flexibility, funding, and years of stakeholder engagement and systems work to prepare online platforms and transactions for broader use.

### WHAT IS THE USDA TASK FORCE ON SUPPLEMENTAL FOOD DELIVERY?

In December 2020, Congress required USDA to convene a task force of WIC stakeholders to identify appropriate steps to scale up remote shopping options, including online ordering with in-store/curbside pickup, online transactions with home delivery, and self-checkout. The USDA Task Force included a broad range of stakeholders - including WIC providers, WIC participants, retailers, EBT processors, and advocacy organizations like the National WIC Association. The Task Force issued its report in September 2021, recommending a series of regulatory reforms to enable online shopping and establish a new vendor management framework that accounts for virtual shopping platforms.

The USDA Task Force report, along with earlier review by the NWA Working Group on Online Shopping and the blueprint developed by the USDA online ordering grant, provides a strong foundation for USDA rulemaking.

### WHAT IS THE USDA ONLINE ORDERING GRANT?

In November 2020, USDA announced a multi-year online ordering grant that would start developing and testing online ordering platforms for WIC shoppers. The grant is administered by the Gretchen Swanson Center for Nutrition. In December 2021, three subgrants were awarded to begin development of online shopping platforms: Washington and Massachusetts WIC will work with Walmart; Minnesota, Iowa, and Nebraska WIC will work with Hy-Vee, a regional grocery chain; and South Dakota and Rosebud Sioux WIC will work with Buche Foods, an independent grocer.

## KEY CONSIDERATIONS FOR VENDOR MANAGEMENT RULES

### HOW CLOSELY SHOULD ONLINE WIC PLATFORMS ALIGN WITH SNAP AND COMMERCIAL OPTIONS?

WIC shoppers deserve an equitable shopping experience that mirrors options available to SNAP households and the general shopping public. While consistency with SNAP and commercial platforms is critical to reduce stigma and ease administrability, WIC vendor regulations should not sacrifice the program's core nutrition mission to promote alignment in systems administration. As WIC explores online shopping, vendor management rules should preserve the nutritional integrity of the WIC food package and incentivize healthier options for WIC shoppers.

### SHOULD WIC VENDOR MANAGEMENT RULES BE SPECIFIC TO EBT TECHNOLOGY?

WIC vendor regulations should be written broadly to accommodate changes in transaction technology. WIC's shift toward online shopping platforms may run parallel to other shopping innovations that may bring tangible transaction technologies, like mobile payments, to WIC shoppers. New vendor regulations should not be prescriptive to a specific technology, but instead anticipate the potential of WIC innovation and the opportunity to adapt to technologies available in the commercial space.

## INCLUDING VIRTUAL PLATFORMS IN WIC SHOPPING

### WHAT IS A VIRTUAL PLATFORM?

Virtual platforms allow a shopper to place an order for foods remotely, either through a website, mobile app, or other technology. Virtual platforms can either conduct a transaction online or generate an order that will be processed at a physical location upon pickup.

### HOW ARE VIRTUAL PLATFORMS DIFFERENT FROM CURRENTLY AUTHORIZED WIC VENDORS?

Currently, WIC can only authorize brick-and-mortar vendors - stores that have a single, fixed location. The only exception would be mobile stores, which are authorized in limited circumstances. Virtual platforms may be connected to physical store locations, but could also rely on fulfillment centers or other supply chains that exist outside of traditional retail models. Even large national chains with several authorized WIC store locations may be associated with a virtual platform that reaches outside the traditional brick-and-mortar supply chain. As WIC accepts virtual platforms, the program's existing vendor monitoring requirements must adapt to account for a different distribution model.

## ARE THIRD-PARTY SHOPPER SERVICES CONSIDERED VIRTUAL PLATFORMS?

While third-party shopper services may appear similar to virtual platforms on the user end, these services do not maintain stock of their own. These third-party shopping services only have limited custody over WIC-approved products when managing a specific order and should be treated differently from virtual platforms that maintain their own stock of WIC-approved foods.

## HOW SHOULD VIRTUAL PLATFORMS BE AUTHORIZED?

WIC vendor authorization has historically been rooted in physical store locations, with each individual store - even within a single company - requiring its own authorization by each state. Virtual platforms present challenges for that model, with the reach of a virtual platform crossing state lines and, in some cases, drawing on distribution channels that also cross state lines.

Virtual platforms could be crafted in a manner that would require individual authorization in each State WIC Agency, with safeguards built into retailer platforms to prevent transactions or deliveries associated with a non-authorized State WIC Agency. The USDA Task Force, identifying the administrative challenges with this model, recommended a nationwide authorization process managed by USDA.

## HOW COULD A NATIONWIDE AUTHORIZATION PROCESS STREAMLINE VENDOR AUTHORIZATION?

USDA-level authorization should not happen autonomously from State policies and systems, but instead create a framework to simplify State-level authorizations through an opt-in that identifies and simplifies additional State-imposed criteria to manage authorization across multiple State WIC agencies. Nationwide authorization would not be blanket approval across the country, but, over time, could encourage State WIC Agencies to standardize and streamline vendor criteria. Virtual platforms could still seek authorization at a state-by-state level.

Similar to multistate pilot projects, USDA-level authorization should require interest from a minimum threshold of State WIC Agencies and would involve a two-step process. First, USDA would work with vendor applicants to identify applicable vendor sites that would fulfill WIC orders and obtain relevant health, safety, and compliance information. Then, USDA would coordinate with interested State Agencies to conduct preauthorization visits to relevant vendor sites and test the virtual platform, including interoperability with State MIS.

Although this process is an expansion of vendor management activities at the USDA level, it could, if implemented properly, promote efficiency for rollout of virtual platforms and relieve significant administrative burden for both State Agencies and vendor applicants.

## HOW SHOULD VIRTUAL PLATFORMS BE MONITORED?

Virtual platforms require more expansive monitoring efforts than physical store locations, accounting for the broader distribution channels that could deliver foods to WIC shoppers. Fulfillment centers and other vendor sites, should be included in routine WIC monitoring activities, as appropriate to assure program integrity.

Even if platforms are authorized at the USDA-level, monitoring activities should still be conducted by State Agencies. Regulations should clarify that State Agencies have the authority to monitor vendor sites within their geographic jurisdiction, *as well as* vendor sites that fulfill orders delivered within their geographic jurisdiction. To reduce duplication, USDA should encourage State Agencies to coordinate vendor monitoring activities, share monitoring information, and communicate any findings or violations to USDA.

Virtual platforms associated with physical store locations can waive this more expansive monitoring approach if they affirm and can document that all orders delivered to WIC shoppers are fulfilled from the physical store location.

## HOW CAN VIRTUAL VENDORS BE HELD ACCOUNTABLE FOR NONCOMPLIANCE?

The USDA Task Force recommended new vendor sanctions that would account for program integrity of virtual platforms. Virtual platforms should be held accountable for charging for foods that are not delivered to participants, inappropriate substitutions that either go beyond the approved food list or are made without consent from the participant, fulfilling orders from a vendor site that is not approved, and setting prices that are not substantially similar with physical store locations.

Although State Agencies would conduct monitoring and report findings to USDA, the USDA Task Force recommended that USDA be responsible for administering vendor sanctions for nationally authorized platforms. USDA should have the option to limit sanctions to a specific vendor site (i.e., a single fulfillment center) or a specific geographic jurisdiction.

## SHOULD VIRTUAL PLATFORMS BE REQUIRED TO OFFER THE SAME PRICES AS IN A PHYSICAL STORE?

Most virtual platforms will be authorized as a separate vendor from physical store locations, even if from the same company, and can be grouped into appropriate peer groups based on Federal and/or State criteria. The peer group structure should be able to account for competitive pricing to assure appropriate use of Federal funds and maintain program integrity. Separate authorization may not be required for a virtual platform associated with physical store locations that can attest to fulfilling orders from the physical store location.

The USDA Task Force recommended that there should be substantially similar pricing between virtual platforms and physical store locations operated by the same corporate entity, but cautioned that holding the two vendor forms to the exact same pricing would prove administratively challenging and limit retailer autonomy to set in-store or online-only promotions.

The impact of virtual WIC platforms on food prices is unclear and merits further evaluation by USDA. Regulations on competitive pricing should be written broadly to afford USDA the authority to provide supplemental guidance to inform State management of peer groups and maximum reimbursement levels.

### **SHOULD VIRTUAL PLATFORMS HAVE MINIMUM STOCK REQUIREMENTS?**

Federal minimum stock requirements associated with the 2009 food package review were demonstrated to improve the availability of produce, especially in low-income neighborhoods. State WIC Agencies routinely require far more minimum stock than the federal minimum, in part to assure that WIC families can conduct most, if not all, of their shopping at a single retail location. WIC should continue to draw lines to prevent fragmentation of the virtual market and authorize virtual platforms that address the wide range of WIC participant needs.

Should USDA embrace the nationwide authorization model, new minimum stock requirements for USDA-authorized virtual platforms would be appropriate. To facilitate broad utilization, State Agencies should not be allowed to require additional stock beyond the new Federal standards for USDA-authorized platforms.

### **HOW CAN USDA-AUTHORIZED VIRTUAL PLATFORMS ASSURE SAFETY OF INFANT FORMULA?**

State WIC Agencies currently must ensure that authorized vendors are procuring infant formula from infant formula wholesalers, distributors, and retailers licensed in the State and registered with the FDA. Should USDA assume a degree of authorization responsibilities, a national list of approved infant formula wholesalers could be appropriate to facilitate authorization of virtual platforms.

### **SHOULD A-50 STORES BE PERMITTED TO OFFER ONLINE SHOPPING?**

Above-50-percent stores (A-50 stores) are vendors with a majority of their food sales revenue deriving from WIC transactions. Since 2004, A-50 stores operate under a specific regulatory regime to assure program integrity, including a limitation on incentive items. While A-50 stores can offer online ordering, home delivery may be construed as an incentive. The USDA Task Force recommended that this limitation be reversed to allow A-50 stores to offer a full suite of online shopping options.

### **HOW CAN SMALL VENDORS BE ACCOUNTED FOR IN THE SHIFT TOWARD VIRTUAL PLATFORMS?**

WIC must be cognizant of the impacts of introducing virtual platforms on participant access, especially when it comes to vendor coverage in remote and rural areas. Dedicated program efforts to support virtual platform solutions for small vendors in targeted areas will be essential to sustaining WIC's national reach.

Smaller vendors, especially in rural or remote areas, may lack the resources to develop virtual platforms or modify point-of-sale systems. Comprehensive solutions that leverage existing or portable technologies, standardize systems and requirements, and provide technical support to small vendors will be required to support online shopping options for these vendors. Even with this support, some regions may face structural barriers to online shopping, including limited broadband access.

### **WHAT ROLE SHOULD WIC PLAY IN PROMOTING HEALTHIER VIRTUAL PLATFORMS?**

WIC has a demonstrated track record of improving the healthfulness of retail environments, especially through increased stocking of produce. WIC must take similar steps to improve the healthfulness of virtual food environments, with thoughtful approaches to sustain WIC's core emphasis on nutritious foods. For example, virtual platforms should not be able to market unhealthy options or products during a WIC transaction - especially just before checkout.

## **MODERNIZING THE WIC TRANSACTION**

### **WHAT IS THE CASHIER PRESENCE REQUIREMENT?**

Current WIC regulations require transactions to occur in the presence of a cashier, reflecting outdated requirements for processing paper vouchers. The limits of this rule have been tested with the introduction of EBT transactions. As WIC explores virtual platforms, the USDA Task Force recommended doing away with this requirement entirely to permit online transactions and reflect the direction of SNAP and commercial practices.

### **HOW SHOULD VIRTUAL PLATFORMS IDENTIFY THE BENEFITS BALANCE FOR WIC SHOPPERS?**

WIC participants may have multiple means of identifying the balance of their monthly benefits, including receipts, mobile apps, and participant portals. With the introduction of virtual platforms, it is imperative that WIC shoppers have their benefits balance at the ready to inform placement of an order. Exceeding available benefits could force a multi-tender transaction, cause challenges at checkout, or result in an abandoned order, leading to additional costs for the retailer.

The USDA Task Force recommended that the benefits balance be displayed before checkout on a virtual platform - a technical requirement to process online transactions and a promising practice for online ordering platforms. Even when not required to conduct a transaction, building platforms that can identify a benefits balance affords additional functionality that could be utilized to identify WIC-approved products, therefore improving the user experience.

The USDA Task Force recognized that participants seeking to purchase weighted produce would benefit from a not-to-exceed limit programmed into the virtual platform, ensuring that the transaction does not go beyond the participant's Cash Value Benefit. Allowing participants the option to set a not-to-exceed value for weighted items would minimize participant confusion, stigma, and allow for higher redemption rates when a participant is certain that a multi-tender transaction will not be forced.

### **HOW CAN ONLINE ORDERING ACCOUNT FOR THE REQUIREMENTS OF THE WIC FOOD PACKAGE?**

Online ordering platforms must be programmed to restrict WIC transactions to benefits available on an individual EBT card, accounting for limitations based on food type, brands, package sizes, and other food package considerations. These safeguards must be in place to assure the nutritional integrity of the WIC benefit. Virtual platforms would benefit from identifying WIC-approved items through filters, tabs, and other identifying markers to inform a WIC participant's shopping.

Commercial practices indicate that online ordering does not always result in a direct match of ordered products. When WIC orders necessitate a substitution, virtual platforms should be required to offer substitutions that align with the USDA or State approved product list. The USDA Task Force recommended that virtual platforms obtain consent before offering a substitution to ensure appropriate use of a participant's limited WIC benefits.

### **HOW CAN THE WIC TRANSACTION BE STRUCTURED TO ACCOMMODATE FOR SUBSTITUTIONS?**

WIC's prescriptive food package requires a precise transaction, and substitutions - especially at different sizes - can complicate the final benefits balance. Refunds are not currently authorized in WIC, but would be necessary to account for substitutions and items that are not delivered. To minimize refund transactions, the USDA Task Force recommended a preauthorization hold - a two-step process that would first place a hold on benefits utilized for an online order before processing a clearing transaction after the final order has been delivered or picked up. Although this preauthorization hold is not currently used in the SNAP context, the USDA Task Force identified that retailers involved in online SNAP projects preferred the two-phase approach.

### **HOW WOULD VIRTUAL PLATFORMS PROCESS TRANSACTIONS AT THE END OF A BENEFITS MONTH?**

WIC benefits reflect a monthly prescription for foods that deliver priority nutrients. Unlike SNAP, WIC benefits are limited to a single benefits month and expire if they are not redeemed. This dynamic can complicate transactions being processed toward the end of a benefit month. An order may be placed before the end of a benefit month but not fulfilled until afterwards. If the preauthorization hold model is employed, the clearing transaction would not happen until after benefits had already expired.

To address this issue, the USDA Task Force recommended that any benefits preauthorized for an online order be extended a grace period to allow the retailer an opportunity to fulfill the order, arrange either delivery or pickup of the foods, and process the clearing transaction. The USDA Task Force recommended that a three-day grace period would be appropriate.

### **HOW SHOULD AN ONLINE TRANSACTION BE AUTHENTICATED?**

Current WIC regulations require participants to sign for their benefits or enter a PIN code to authenticate the transaction. Commercial platforms already require PIN codes or other means of electronic authentication for other forms of tender. Similar to other elements of WIC's vendor management regulations, the USDA Task Force identified that broader regulatory language would be useful to account for future technological innovations while accomplishing the same program integrity purpose.

### **HOW SHOULD ONLINE WIC TRANSACTIONS BE PAID FOR?**

WIC must work swiftly to scale up virtual platforms for participants who are attuned to the disparity between the WIC shopping experience and options available to SNAP households and the general shopping public. Federal investment will be critical in developing virtual platforms for WIC shoppers and making appropriate modifications to WIC MIS, EBT processing systems, and retailer platforms.

Once virtual platforms are established, policymakers should be sensitive to new fees that could affect utilization of the new platforms. Retailers should be insulated from EBT processing or interchange fees that could drive up new costs to process orders or transactions initiated online. Similarly, participants are currently insulated from fees and must receive WIC foods free of charge. Although the USDA Task Force recommended that WIC transactions follow the pattern established in SNAP, it is unclear whether the requirement that SNAP families pay out-of-pocket for delivery fees is impacting utilization of online SNAP options. Especially due to the limited value of the WIC benefit, any new fees that are paid out-of-pocket by WIC participants should be evaluated against the potential utilization of virtual platforms.