STATE OF NEW YORK

5304

2019-2020 Regular Sessions

IN ASSEMBLY

February 8, 2019

Introduced by M. of A. CRESPO -- Multi-Sponsored by -- M. of A. PICHARDO -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to a special supplemental nutrition program for women, infants and children

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 2507 of the public health law, as amended by chapter 12 of the laws of 2017, is amended to read as follows:

§ 2507. Special supplemental nutrition program for women, infants and children[~~; specialty formula~~].

1. Definitions. For the purposes of this section:

(a) "WIC" shall mean the special supplemental nutrition program for women, infants and children;

(b) "WIC food vendor" **or "vendor"** shall mean a business entity that operates a retail delivery system that is authorized by the department to sell products covered by WIC to individuals under the WIC program; [~~and~~]

(c) "Specialty formula" shall mean specifically formulated nutrition products prescribed for medically fragile WIC participants with qualifying medical conditions[~~.~~]**;**

(d) "WIC food item" shall mean food items eligible for purchase through the WIC program; and

(e) "WIC check" shall mean a check, voucher, or other negotiable instrument that can be redeemed by a WIC recipient at a WIC food vender for food items eligible under the WIC program.

2. Every WIC food vendor shall be authorized to sell any product covered under WIC, including specialty formula, in accordance with the WIC vendor type as designated by the department, unless specifically limited or barred by the commissioner pursuant to state or federal regulations. The commissioner is authorized to establish criteria defining which WIC food vendors can sell specialty formula. Any such criteria

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD08895-01-9

shall not be applied arbitrarily and shall ensure WIC participant access to specialty formula. The commissioner shall establish a process to address individual cases where there is evidence of inadequate WIC participant access.

3. (a) Every WIC food vendor may submit to the department or the department's designee its current shelf price for any WIC food item that experiences low fluctuation in price and market value and/or a high incidence of WIC check discrepancies, for approval of such price under WIC. Criteria for approval shall be set by the department and shall include, but shall not be limited to, the geographic location of the vendor's store, the type of store, the number of cash registers contained within the vendor's store, the vendors volume of WIC business, and the availability of WIC food items in that geographic region in proportion to the volume of WIC participants in such region. The department shall respond to the vendor's request within twenty-one days of the submission.

(b) The department or its designee shall include in any notification of disapproval under this subdivision for an item or items the most up to date average price for the vendor's peer group and shall allow resubmission for approval of such items within sixty days of such disapproval.

(c) Any approval under this subdivision shall last no less than six months, provided that the vendor may apply for a new price to be approved within such time for good cause shown. The approval of a price under this subdivision shall not authorize the use of a price that is otherwise contrary to applicable WIC law, regulation or policy.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law.