

21—50.11 (159,175B) Certified vendor noncompliance sanctions.

50.11(1) A voucher shall be returned to the certified vendor unpaid if the certified vendor identification number is not properly stamped on the face of the voucher or if the recipient signature is missing on the face of the voucher. A voucher may be resubmitted for payment in the event that the signature or vendor certification identification error can be properly and legally corrected by the certified vendor.

50.11(2) Sanctions for violations of FMNP/SFMNP procedures and rules applicable to a certified vendor are as follows:

a. A warning citation may be the sanction for violation of the requirement to:

- (1) Appropriately display the certified vendor identification sign,
- (2) Post the current operating sticker to the vendor identification sign or vendor identification card,

or

(3) Coordinate with other certified vendors to ensure that at least one certified vendor remains at the authorized farmers' market during the posted hours and days of operation.

If a pattern of disregard is evident, the vendor may be suspended for the remainder of the current year and the following year.

b. A warning citation after the first violation and suspension from the FMNP/SFMNP for the remainder of the current year and the following year after the second violation (regardless of when the first violation occurred) may be the sanctions for violation of the requirement to:

(1) Begin each market day with at least 20 percent of all products for sale or on display in a certified vendor stall as eligible foods, having personally grown a majority of the eligible foods for sale or display, and with all produce being locally grown.

(2) Accept vouchers only at locations, hours, or days authorized by the department.

(3) Provide eligible foods to recipients upon receipt of a valid and properly completed voucher, which is signed at the time of sale.

(4) Accept vouchers as payment for eligible foods only if presented on or before the usage expiration date printed on the face of the voucher.

(5) Handle transactions with recipients in the same manner as transactions with all other customers to ensure that FMNP/SFMNP clients are not exposed to discriminatory practices in any form.

(6) Not collect state or local taxes on purchases involving vouchers.

(7) Provide eligible foods to recipients at the current price or less than the current price charged to other customers.

(8) Not levy a surcharge based on the use of vouchers by recipients.

(9) Comply with all procedures and rules as herein outlined and as delineated in the department vendor agreement, the certified vendor handbook, and written notices of clarification issued by the department to the vendor.

(10) Agree to be monitored at farmers' markets/farmstands and growing locations for compliance with FMNP/SFMNP requirements, including both overt and covert monitoring; provide proper receipts for produce purchased for resale; or provide directions to growing sites upon request of department staff.

(11) Refrain from abusive or discriminatory treatment of recipients or FMNP/SFMNP staff.

c. Disqualification without reinstatement may be the sanction for violation of the requirement to:

(1) Accept vouchers only in exchange for eligible foods, or

(2) Return no cash or issue no credit in any form to recipients during sales transactions that involve vouchers only.

50.11(3) Violations involving the use of multiple vouchers in a single sales transaction shall be considered as a single violation. Violations involving multiple sales transactions, regardless of time elapsed, shall be considered multiple violations at a standard of one violation per sales transaction.

50.11(4) Citations. A written citation shall be issued to the certified vendor by the department within five days of receipt of evidence of a violation. A written citation from the department shall be pending for five days following receipt of the citation by the certified vendor. The certified vendor shall be granted the pending period for presenting sufficient evidence to the department to substantiate a reversal. Remedies undertaken in response to receipt of a written notice of a pending citation of noncompliance shall not constitute evidence in defense of such citation. Failure to present any evidence (oral or written) to the department within the specified period shall constitute acceptance of the citation by the certified vendor. Submission of insufficient evidence by the certified vendor for determination of reversal on the pending citation by the department may result in a sanction upon completion of the pending period.

50.11(5) Suspension. Suspension of a certified vendor from participation in FMNP/SFMNP shall remain in effect for the balance of the current year and the following year. During the suspension period, the cited vendor shall refrain from participating in FMNP/SFMNP. The department shall have the right to reimbursement from the vendor of an amount equal in value to vouchers deposited after the official date of the suspension notification. The suspended vendor is required to return the certified vendor identification sign(s) and certified vendor stamp to the department within 15 days of receipt of the suspension notice. At the conclusion of a suspension period, the vendor must reapply for and receive certification in order to resume participation in FMNP/SFMNP.

50.11(6) Disqualification. Disqualification shall be without reinstatement. The disqualified vendor is required to return the certified vendor identification sign(s) and certified vendor stamp to the department within 15 days of receipt of the disqualification notice. In the event of a disqualification, the department shall have the right to reimbursement from the vendor of an amount equal in value to vouchers deposited after the official date of disqualification notification.

50.11(7) Probationary status. Any vendor successfully recertified following suspension will be on probationary status for one full FMNP/SFMNP season. Recurrence of a substantiated suspension violation during the probationary period and for which the certified vendor has been cited shall be sufficient grounds for immediate and automatic disqualification.