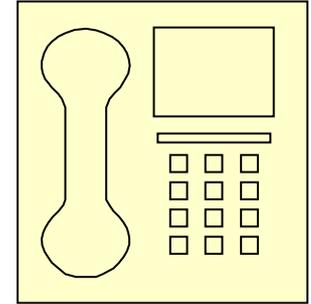




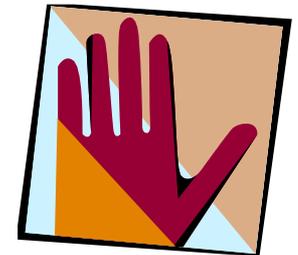
Regulatory Alert 2016-02
Stakeholder
Consultation
May 13, 2016

Webinar Tools

- *6 mutes and unmutes your phones



- Raise your hand during the feedback periods to ask questions/provide input



- <http://www.cdph.ca.gov/programs/wicworks/Pages/WICRegulations.aspx>

Agenda

1. Background WIC Bulletin Regulatory Process
2. Timeline
3. Vendor Authorization Criteria History
4. Review Proposed Changes
 - Section 70100: Business Integrity
 - Section 70500: Circumvention of WIC Sanction
5. Important Reminders

Regulatory Process Background

- September 29, 2012: Assembly Bill (AB) 2322 signed into law adding section 123322 to the California Health and Safety Code
- Legislation enabled WIC to adopt specified department requirements into State regulation through an expedited regulatory process

Timeline

- Regulatory Alert Released: 04/15/16
- Stakeholder Workgroup Webinar: 05/13/2016
- Comment Period: 04/18–06/03/16
- Final action posted on WIC website
 - no later than 120 days from the end of the comment period



Vendor Authorization Criteria History



State of California—Health and Human Services Agency
California Department of Public Health



RON CHAPMAN, MD, MPH
Director and Public Health Officer

EDMUND G. BROWN JR.
Governor

September 17, 2013

WIC REGULATORY BULLETIN 2013-01

NOTICE OF FINAL ACTION

Subject Final Action on the Notice of Proposed Changes posted as Regulatory Alert 2013-01 on June 14, 2013 posted at:
<http://www.cdph.ca.gov/programs/wicworks/Pages/WICRegulations.aspx>

<http://www.cdph.ca.gov/programs/wicworks/Pages/WICRegulations.aspx>

Feedback



Regulatory Alert 2016-02

- Regulatory Alert 2016-02: Proposes to amend the Business Integrity and Circumvention of WIC Sanction (W.B.R. sections 70100 and 70500), pursuant to Health and Safety Code section 123322 and in accordance with the federal requirements governing the WIC Program
- CDPH is proposing to amend W.B.R. sections 70100 to modify the list of activities that indicate a lack of business integrity for the purposes of authorization.
- Amendments to section 70500 enable the Department to authorize store locations for a contract that contains disqualified locations as long as certain criteria are met.

W.B.R. Section 70100

- CDPH is proposing to amend section 70100 to include the following considerations to the Department's evaluation of the business integrity of vendors and vendor applicants for participation in the WIC program:
 - Computer crimes or cybercrimes
 - Misprision of a felony for business integrity violations in federal regulation (7 C.F.R. § 246.12(g)(3)(ii)).
 - Convictions for violating California Business and Professions Code section 17533.6
 - Failure to maintain active status as a corporations, LLC and LLP

W.B.R. Section 70100: Computer Crimes

- 70100(b)(2): Computer crimes or cybercrimes are defined as the unauthorized use of a computer, computer network or internet for personal or corporate gain.
 - Examples:
 - Fraudulent use of credit or debit cards
 - Cybercrimes that affect the privacy of individuals or the well-being of financial institutions, governmental agencies, and businesses
 - Identity theft
 - Phishing
 - The illegal use of personal or private information

W.B.R. Section 70100: Computer Crimes

- Adding computer-based crimes to the list of activities impacting a vendor's business integrity is needed to ensure that the Department's business integrity requirements reflect trends in computer use for both business transactions and transactions impacting business integrity.
- These amendments will help limit authorization to vendors who have not committed offenses indicating a lack of business integrity.
- The amendments also ensure that the Department's definition of business integrity reflects the electronic means by which crimes impacting business integrity can be committed.

W.B.R. Section 70100: Misprision of Felony

- 70100(b)(3): Misprision of felony is the deliberate concealment of one's knowledge of a treasonable act or felony.
 - In the case of W.B.R. section 70100: it would be the willful failure to notify authorities or the concealment of crimes that indicate a lack of business integrity as defined in title 7 Code of Federal Regulation part 246.12 subsection (g)(3)(ii).
 - Crimes listed in federal regulation include fraud, forgery, falsification of records, making false statements and false claims, and the obstruction of justice.

W.B.R. Section 70100: California Business Code Section 17533.6

- 70100(b)(4): Convictions and civil judgements for violating California Business and Professions Code section 17533.6
 - Makes it a misdemeanor for persons, firms and corporations to use any content that could imply that the person, firm or corporation is connected with, approved, or endorsed by a governmental organization when it is not.
 - Example: Posting the WIC logo, WIC acronym or close facsimiles thereof at an unauthorized location falsely implies that the store is connected with or approved by CDPH/WIC when it is not.
 - Stores that have convictions or civil judgements under this statute may negatively impact redemption integrity and are falsely representing themselves as connected with the CDPH/WIC program by using the WIC logo, acronym or close facsimiles.

W.B.R. Section 70100: Corporations, LLCs and LPs

- W.B.R. 70100 (c) :
 - The Department is proposing amendments to specify that corporations, limited liability companies and limited partnerships must be active and remain active with the CA Secretary of State to obtain and retain WIC authorization.
 - Corporations, LLCs and LPs that do not have an active status with the CA Secretary of State lose their powers, rights, and privileges.
 - This requirement supports the business integrity of the WIC retail delivery system because it ensures that authorized corporate vendors demonstrate the ability to meet basic requirements for transacting business in California.

W.B.R. Section 70100: Authorization of New Store Locations

- W.B.R. section 70100 (d): CDPH is proposing amendments to specify that the Department will only authorize additional store locations for contracts where the number of disqualified stores on the contract is at or below five percent of the total number of stores on the contract.
- This provision applies at initial authorization and does not apply for the purposes of reauthorization. Vendors with more than 5 percent of their contract disqualified will still be able to reauthorize existing stores.
- The 5 percent threshold balances vendors' reasonable desire to authorize additional store locations, while certain stores serve a sanction, with the Department's need to maintain redemption integrity.

Feedback



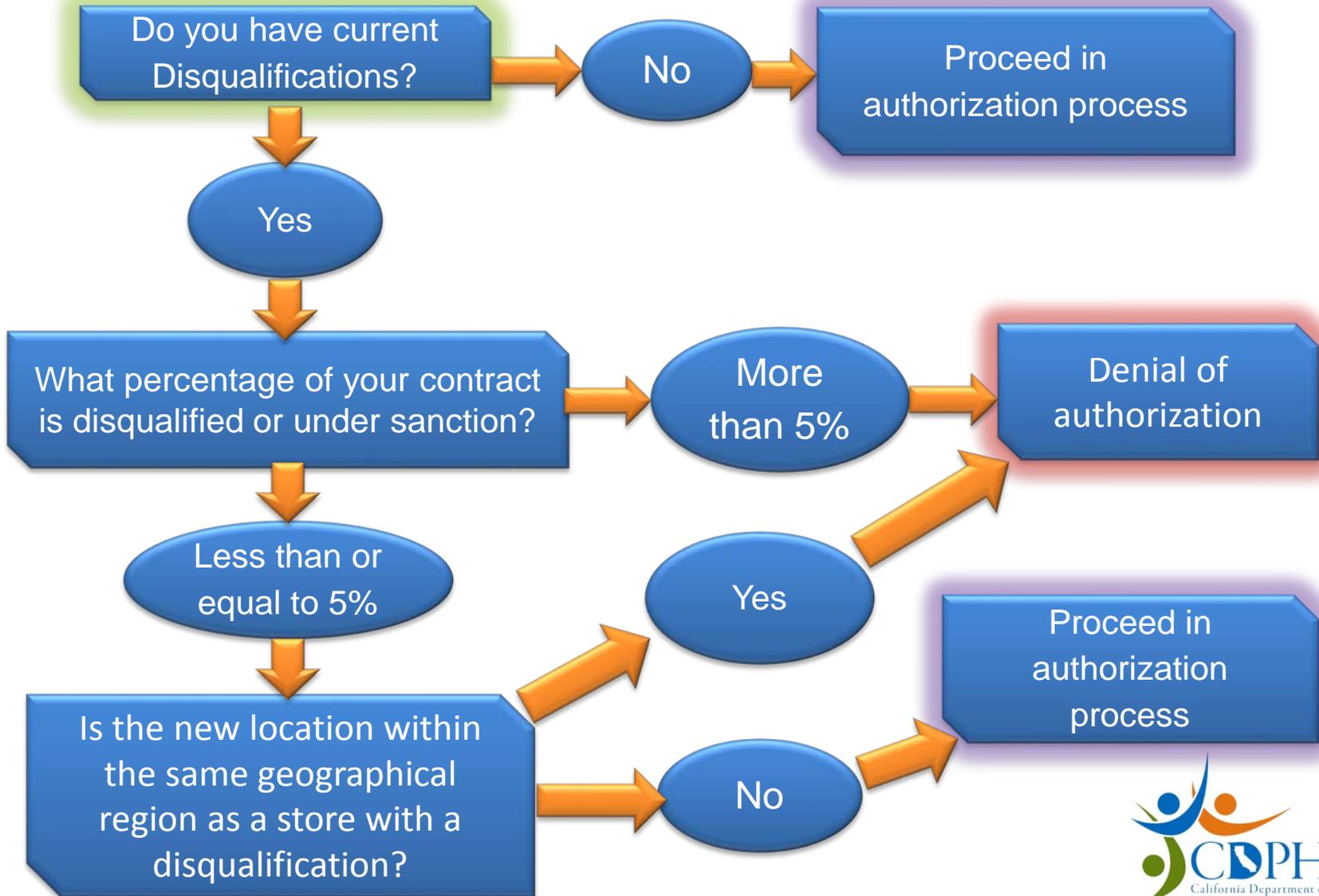
Circumvention of WIC Sanction, Section 70500

- This section contains proposed updates regarding circumvention of WIC sanctions.
- CDPH proposes changes to (b)(3), specifically that geographical location now be a factor in determining a vendor ownership's ability to open a new location while a WIC sanction is currently in effect.
- Subsections (c)(1-2) cover documentation necessary for authorization, including proof of ownership, licenses and permits, tax documentation, and property value statements.

Circumvention of WIC Sanction, Section 70500(b)(3)

- CDPH proposes adding geographical location as a factor in determining a vendor's ability to open a new location while a WIC sanction is currently in effect.
- The referenced California Code of Regulations, Title 22, section 40740 subsections (h)(2)(A-B) defines "geographical area" as five miles in a rural area and two miles in an urban area.
- The geographic provisions ensure that a vendor ownership cannot attempt to circumvent a WIC sanction by adding a location within the same geographic area as a store serving a disqualification.

Example Authorization Flow Chart



Circumvention of WIC Sanction, Section 70500

- (c)(1) CDPH proposes updating and clarifying additional information that may be requested from a vendor to determine said vendor's ability to meet authorization criteria.
 - This additional information has been requested as part of background check to ensure that a store is not attempting to circumvent a sanction or claim.
- (c)(2) The Department further proposes changes to the type of information that may be requested to verify the ownership of the store and the value of the store in market value.

Feedback



Important Reminders

- Public comment period for Regulatory Alert 2016-02 ends on June 3rd, 2016.
- Comments must be submitted via e-mail to: WICRegulations@cdph.ca.gov
- Regulatory Alert 2016-02 may be accessed on the Statutes and Regulations section of CDPH/WIC's public website: www.wicworks.ca.gov
- Public posting of the final action on WIC website (no later than 120 days from the end of the comment period).

Thank You!

