

# Utah WIC Policy and Procedures Manual

## Section G: Ineligibility

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### **G. INELIGIBILITY**

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### G.1. Ineligible Applicants

#### Policy

Persons ineligible for the program must be notified in writing of their ineligibility, of the reasons for the ineligibility and of the right to a fair hearing. (7 CFR 246.7 j. (5)).

#### Procedure

- I. Ineligible at the time of application
  - a. Applicants who initially apply for the WIC Program but do not meet all three of the criteria for eligibility (residency, income, and nutritional risk) are ineligible to receive WIC benefits.
  - b. Ineligible applicants must be issued a Notice of Ineligibility printed from the VISION system.
  - c. Documentation that the printed notice was given to the applicant must be made in the comments screen. It is not required to scan a copy of the notice.

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### G.2. Termination

#### Policy: Termination during a certification period

Active participants to be terminated during a certification period are entitled to a minimum of 15 days written notification with benefits prior to termination. This includes women who stop breastfeeding their child who is older than 6 months. This does not include participants to be terminated for dual participation or those to be terminated for not picking up checks for two or more months in a row.

#### Procedure

- I. Participants may be terminated during their certification period for the following reasons:
  - a. Family is over income
  - b. Participant violations
  - c. Participant requests termination
  - d. Categorical ineligibility; such as if a woman discontinues breastfeeding her baby who is between six (6) and twelve (12) months of age.
  - e. Category change
  - f. Deceased
  - g. No longer in household
  - h. Transfer out of state
  - i. Failure to provide proof
  - j. No recent food benefit pick-up
- II. Participants terminated during a certification period are entitled to 15 days notification of termination.
  - a. Participants are eligible for a minimum of 15 days benefits during the notification period.
  - b. Notification is accomplished through the issuance of the **Notification of Termination** printed from the VISION system.

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- c. If the applicant is receives this notice in Spanish, clinic staff must manually write the reason for termination in Spanish on the letter to comply with notification requirements.
  - d. Document issuance of the Notice of Termination in the comments screen.
  - e. For disqualifications due to participant violations, the Notice of Disqualification is printed from the Participant Violations screen. This notice provides 15 days notification of termination.
- III. Terminate the participant within Certification/Termination screen using the appropriate reason. The termination effective date in the computer will be set to a date 15 days in the future.
- IV. Failure to surrender checks or redemption of checks beyond the notification period should be treated as a participant violation. Failure to inform the clinic that they have stopped breastfeeding **before additional benefits are issued** should also be treated as a participant violation. (See section G.6)
- V. Participants terminated during a certification period who **do not require** a Notice of Termination and 15 days benefits include:
- a. Participants who are being recertified as a different category of participant at the same time as the termination.
  - b. Participants who are being terminated from a provisional certification for failure to provide proof.
  - c. Persons who are being terminated for no recent food benefit pick-up who have not received any benefits in the last two months.
  - d. Deceased individuals
  - e. Individuals who are no longer a part of the household and are not transferring to another household.
  - f. Participants who are moving out of state and have been issued a VOC.
- VI. Routine terminations are completed automatically by the system for reasons such as:
- a. Failure to provide proof (provisional certification)
  - b. No recent food benefit pick-up (no benefit pick-up in the last two months)

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c. Failure to reapply (after a certification period has expired)

d. Categorical ineligibility (after a certification period has expired)

### **Policy: Reinstatement during a certification period**

Participants terminated for certain reasons during a certification period may be reinstated before the expiration of the certification period.

### **Procedure**

I. Participants terminated during the certification period for the following reasons may be reinstated during the certification period:

a. No recent food benefit pickup

b. participant requested termination

c. transfer out of state

d. no longer in household

II. If the certification period has already expired or if the participant's record has changed from "terminated" to "ineligible" the client cannot be reinstated and a new certification must be completed.

a. A new certification must be completed even within the timeframe of the current certification period.

b. The new certification may not be completed using old data from the previous certification.

III. Reinstatement is completed within the Certification/Termination panel, by editing the termination record and clicking on the "Reinstatement" button.

a. The reinstatement reason must be entered.

b. Make a comment if necessary to explain the circumstances.

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### **G.3. Notification of Expiring Certification**

#### Policy

Participants must be notified that their certification period is about to expire.

#### Procedure

- I. Participants must be notified at least fifteen (15) days prior to actual expiration, but not earlier than two (2) months before expiration.
- II. Notification is accomplished by a statement being printed on the participant's last check of each month that lists the participant's certification expiration date.
- III. For any certified participants who do not receive checks, a letter is mailed, a phone call is made, or verbal notice is given notifying the participant of the certification expiration date and the need to reapply if eligible.
- IV. At the last vouchering appointment of the certification period, clinic staff should discuss the participant's future categorical eligibility status with the participant or guardian. This will assist the client to know whether or not they should reapply for certification. Certification appointments should be noted on the WIC ID packet.

#### **Policy: Issuing checks prior to recertification**

All remaining checks must be printed for infants, children, and breastfeeding women prior to their recertifying.

#### **Procedure**

- I. If the new certification date will be before the termination date of the current certification period, print all remaining checks before starting the certification process.

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### G.4. Missed Appointments

#### Policy

Pregnant women who miss their initial WIC certification appointments must be contacted in order to attempt to reschedule the certification appointment.

#### Procedure

- I. The Utah WIC Program uses an automated telephone dialing system to make appointment reminder calls and to notify all applicants and participants of missed appointments.
  - a. When an applicant or participant misses an appointment, clinic staff notes this in the computer system on the same day or the day following the missed appointment.
  - b. The automated phone system will then make a call to the participant. Calls will be made on the second business day following the date of the missed appointment.
- II. Pregnant women who miss an initial certification appointment and cannot be reached by telephone must be mailed a Missed Appointment letter. This requirement also applies to any local agencies that choose not to use the automated phone system.
  - a. Document that the Missed Appointment letter was mailed in the comments screen.
- III. When applicants to the program contact the clinic to reschedule a missed certification appointment the clinic should offer the applicant the next available certification appointment. The clinic is not required to meet processing standards on rescheduled appointments.
- IV. Once certified, participants should be encouraged to receive benefits on a continual basis. Clinics should strive to voucher ninety-five percent (95%) of their caseload each month. Reminding participants that they have missed their appointment is one way to increase the number of participants served in each clinic.
- V. The computer system automatically terminates participants who do not pick-up benefits in over two months.
- VI. Participants who are late for appointments:
  - a. Participants may not be terminated for being late to an appointment.

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Participants who are late or continuously miss their appointments should be counseled concerning the importance of keeping appointments and of notifying the WIC clinic in advance if they cannot keep an appointment.

- b. Local clinics may form their own policies for dealing with participants who are late for appointments. Local policies are subject to state office review.

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### G.5. Complaints

#### Policy

All complaints regarding participants, endorsers, proxies, and vendors must be documented according to the procedures outlined below.

#### Procedure

- I. All complaints from any source, written or oral, not alleging a participant violation, need to be documented in the **Customer Service Log** in VISION. This includes complaints made by the participant against a vendor. This documentation needs to be completed so that appropriate investigative procedures, follow-up, and resolution can be examined if the participant/vendor requests an agency conference or a fair hearing.
  - a. In the Customer Service Log, indicate where the complaint originated with the Customer Service Type drop-down menu.
  - b. The description box needs to contain either the file name of the scanned written complaint (if applicable) or the details of the complaint including type of complaint, status of complainant, date, time, location (in the case of vendors, specific address), specific food items involved; description of individuals involved; interaction and discussion between parties. Complaints missing this critical information may not result in corrective action.
- II. If the complaint involves a vendor, then the complaint will be referred to the local agency vendor management representative to investigate in accordance with Section F (Vendor Management).
- III. If the complaint involves a participant violation as defined in G.6, the **Participant Violations** screen in VISION will be completed instead.
- IV. When possible, obtain a written statement from the individual(s) making the complaint. Vendors may use the **Business Reply Card** to document participant complaints. Oral complaints can be taken, however, may not provide the necessary documentation or information to be satisfactorily used in a Fair Hearing. Those individuals making oral complaints against vendors or WIC clients should be asked to place the concern in writing and this should be scanned.
- V. If the complaint involves a situation that can be adequately explained or completely resolved on the basis of simple clarification of WIC Program policy and procedures, then the local agency should resolve the concern. If a complaint needs to be referred to the State WIC office, the written

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- documentation should be scanned and an electronic copy should be kept in the clinic and an electronic copy forwarded to the State WIC Office.
- VI. Enter the closed date upon resolution of the complaint or enter a closed date if a family alert has been created to notify staff to discuss the situation at the next appointment. If the complaint is being referred to the State, the clinic director, or the local vendor coordinator for resolution, a closed date should not be entered until that person has been contacted via phone/email to forward the complaint.
- VII. Complaints should be resolved and closed within a reasonable amount of time. Unresolved complaints (those without a closed date) automatically place an alert on the Alert screen of the Operations menu. These alerts can be viewed by State staff.
- VIII. Complaints regarding staff members or internal clinic situations do not need to be documented in VISION but must be handled and resolved according to local agency procedures.
- IX. The State WIC office must be contacted immediately regarding all complaints alleging discrimination of any kind. The Civil Rights complaint check box must also be checked.
- a. Complaints of Civil Rights must be handled in accordance with § 246.8(b). [In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue S.W., Washington, D.C. 20250-9410 or call (866) 632-9992 (voice) or (202) 260-1026 (local). TTY users can contact USDA through local relay or the Federal Relay at (800) 877-8339 (TTY) or (866) 377-8642 (relay voice users). USDA is an equal opportunity provider and employer.] See Section L.11 for more information regarding Civil Rights policy.
  - b. Although it is the policy of the USDA and FNS, as so stated above, to provide fair and equitable treatment to every employee and customer, there are specific laws and regulations that provide for the protected bases for each nutritional assistance program. For this reason, sexual orientation, marital or family status, parental status, and protected genetic information are not protected bases in The WIC program.
  - c. All complaints alleging discrimination on the basis of race, color, national origin, age, sex, or disability, either written or verbal, will be processed within the time frames established by Departmental regulations and

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agreements. All Civil Rights complaints will be forwarded to USDA within five (5) days.

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### G.6. Participant Violations

#### Policy

Mandatory sanctions or other actions for participant violations. The local agency must impose disqualifications, or take other actions in accordance with the procedures set forth in § 246.12(u), in response to participant violations including, but not limited to, the violations listed in the definition of Participant violation in § 246.2. Participant sanctions may include disqualification from the Program for a period of up to one year.

#### Procedures

- I. Participant violations include:
  - a. Redeemed a WIC food instrument/cash-value voucher outside authorized dates
  - b. Attempted transaction of food instruments/cash-value vouchers with unauthorized vendors.
  - c. Altered the WIC food instrument/cash-value voucher in any way including intentionally using false signatures or proxy signatures.
  - d. Exchanged a food instrument/cash-value voucher for unauthorized food items or items not listed on the food instrument/cash-value voucher.
  - e. Directed verbal abuse and/or threatening to harm or physically harming clinic or vendor staff.
  - f. Redeemed WIC food instruments/cash-value vouchers that were reported lost/stolen with redemption of both the lost and replacement food instruments/cash-value vouchers.
  - g. Exchanged a food instrument/cash-value voucher or supplemental foods for cash, credit, or non-food items.
  - h. Exchanged a food instrument/cash-value voucher for foods in excess of those listed on the participant's food instrument/cash-value voucher.
  - i. Gave away, sold or offered to sell WIC food instruments/cash-value vouchers or supplemental foods to anyone other than the individual(s) for which they were issued.

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- j. Intentionally made false or misleading statements or intentionally misrepresented, concealed, or withheld facts to obtain benefits. This includes but is not limited to:
    - i. Failure to properly report household size and income.
    - ii. Failure to inform clinic staff of an increase of household income above eligibility guidelines before additional benefits are issued.
    - iii. Failure to inform clinic staff of the discontinuance of breastfeeding before additional benefits are issued.
  - k. Dual participation. (Participant received & redeemed food instruments/cash-value vouchers from two different clinics in the same month. Or, the participant received food benefits from both the WIC Program and CSFP.)
- II. Methods of Detecting Participant Violations:
- a. Improper food instrument/cash-value voucher redemption reported by the State Agency
  - b. Reports/complaints from vendors/participants and/or other individuals/agencies
  - c. Dual participation reports
  - d. Participant admits wrong doing/violation during WIC clinic visit, voucher issuance, and/or investigation of improper redemption
- III. Participant Violation types and corrective actions are found on the following table:

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### PARTICIPANT VIOLATION AND CORRECTIVE ACTIONS:

(1) See exceptions to mandatory disqualification

(2) Repayment required if a quantitative value of the violation can be determined

PARTICIPANT VIOLATION	CORRECTIVE ACTION	CORRECTIVE ACTION REPEATED OFFENSES
	FIRST OFFENSE	(within one year <del>the cert period</del> )
1) Redeemed a WIC food instrument/cash-value voucher outside authorized dates	<u>WARNING</u> documented in the WIC Participant Alleged Violation Report (Required Counseling)	<u>SUSPENSION</u> of one (1) month of benefits (Required Counseling)
2) Attempted transaction of food instruments/cash-value vouchers with unauthorized vendors.	<u>WARNING</u> documented in the WIC Participant Alleged Violation Report (Required Counseling)	<u>SUSPENSION</u> of one (1) month of benefits (Required Counseling)
3) Altered the WIC food instrument/cash-value voucher in any way including intentionally using false or invalid signatures	<u>WARNING</u> documented in the WIC Participant Alleged Violation Report (Required Counseling)	<u>SUSPENSION</u> of one (1) month of benefits (Required Counseling)
4) Exchanged a food instrument/cash-value voucher for unauthorized food items or items not listed on the food instrument/cash-value voucher.	<u>WARNING</u> documented in the WIC Participant Alleged Violation Report (Required Counseling)	<u>SUSPENSION</u> of one (1) month of benefits (Required Counseling)
5) Directed verbal abuse and/or threatening to harm or physically harming clinic or vendor staff.	<u>WARNING</u> documented in the WIC Participant Alleged Violation Report (Required Counseling)	<u>SUSPENSION</u> of one (1) month of benefits (Required Counseling)
6) Redeemed WIC food instruments/cash-value vouchers that were reported lost/stolen with redemption of both the lost and replacement food instruments/cash-value vouchers	<u>SUSPENSION</u> of one (1) month of benefits (Required Counseling) OR <u>repayment of benefits if the claim is &lt;\$100</u> (if \$100 or more, see #13) <sup>(2)</sup>	<u>SUSPENSION</u> of <del>three (3)</del> <u>two</u> months of benefits (Required Counseling) OR <u>repayment of benefits if the claim is &lt;\$100</u> (if \$100 or more, see #13) <sup>(2)</sup>
7) Exchanged a food instrument/cash-value voucher or supplemental foods for cash, credit, or non-food items	<u>SUSPENSION</u> of one (1) month of benefits (Required Counseling) OR <u>repayment of benefits</u> <sup>(2)</sup>	<u>SUSPENSION</u> of <del>three (3)</del> <u>two</u> months of benefits (Required Counseling) OR <u>repayment of benefits</u> <sup>(2)</sup>
8) Exchanged a food instrument for supplemental foods in excess of those listed on the participant's food instrument. (Does not include cash-value voucher)	<u>SUSPENSION</u> of one (1) month of benefits (Required Counseling) OR <u>repayment of benefits</u> <sup>(2)</sup>	<u>SUSPENSION</u> of <del>three (3)</del> <u>two</u> months of benefits (Required Counseling) OR <u>repayment of benefits</u> <sup>(2)</sup>
9) Exchanged a cash-value voucher for fruits/vegetables in excess of the maximum value printed on the participant's cash-value voucher	<u>WARNING</u> documented in the WIC Participant Alleged Violation Report (Required Counseling)	<u>SUSPENSION</u> of one (1) month of benefits (Required Counseling) OR <u>repayment of benefits</u> <sup>(2)</sup>

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PARTICIPANT VIOLATION	CORRECTIVE ACTION FIRST OFFENSE	CORRECTIVE ACTION REPEATED OFFENSES <b>(within one year <del>the cert</del> period)</b>
10) Gave away, sold <b>or offered to sell</b> WIC checks or supplemental foods to anyone other than the individual(s) for which they were issued.	<u>SUSPENSION</u> of one (1) month of benefits (Required Counseling) OR repayment of benefits if the claim is <\$100 (if \$100 or more, see #13) <sup>(2)</sup>	<u>SUSPENSION</u> of <del>three (3)</del> <b>two</b> months of benefits (Required Counseling) OR repayment of benefits <sup>(2)</sup> (if \$100 or more, see #13) <sup>(2)</sup>
11) Intentionally making false or misleading statements or intentionally misrepresented, concealed, or withheld facts to obtain benefits.	<u>SUSPENSION</u> of three (3) months of benefits and/or <u>TERMINATION</u> from the WIC Program if determined to be over income and/or repayment of benefits <sup>(2)</sup>	<u>MANDATORY DISQUALIFICATION</u> of one (1) YEAR* based on second OR subsequent repayment of benefits <sup>(1) (2)</sup>
12) Dual participation. (Participant received & redeemed food instruments/cash-value vouchers from two different clinics in the same month. Or, participant received food benefits from both the WIC Program and CSFP.)	<u>MANDATORY DISQUALIFICATION</u> of one (1) YEAR* OR repayment of benefits <sup>(1) (2)</sup>	<u>MANDATORY DISQUALIFICATION</u> of one (1) YEAR* OR repayment of benefits <sup>(1) (2)</sup>
13) Assessment of a claim of \$100 or more for any violation	<u>MANDATORY DISQUALIFICATION</u> of one (1) YEAR* OR repayment of benefits: <sup>(1) (2)</sup>	<u>MANDATORY DISQUALIFICATION</u> of one (1) YEAR* OR repayment of benefits <sup>(1) (2)</sup>
14) Subsequent claim of any amount.	<u>MANDATORY DISQUALIFICATION</u> of one (1) YEAR* OR repayment of benefits: <sup>(1) (2)</sup>	<u>MANDATORY DISQUALIFICATION</u> of one (1) YEAR* OR repayment of benefits <sup>(1) (2)</sup>

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- IV. Participant violation documentation and corrective action is handled by local agency staff using the following guidelines:**
- a. The State WIC Office will notify appropriate clinic staff via email of participant violations detected through a review of rejected WIC checks. The email will include:
    - i. the participant name,
    - ii. family ID number,
    - iii. type of violation,
    - iv. a copy of the rejected check(s).
  - b. State office staff will input a violation into the VISION system under the participant's record.
    - i. The "Do not allow food benefits" check box in the Participant Violations screen will be marked (locking out food issuance) indicating that the participant must be counseled PRIOR to food issuance. This automatically places an alert in the Family Alerts and in the Food Benefits Alerts.
    - ii. An image of the rejected check(s) will be uploaded into the scanned documents.
  - c. If clinic staff becomes aware of a participant violation that is not reported by the State WIC Office, clinic staff must input the violation into the participant's record in VISION.
    - i. Input the violation date.
    - ii. Select the violation type from the drop down list.
    - iii. Enter any details or comments about the alleged violation.
    - iv. Scan any written documentation or complaint into the family record.
    - v. Mark the "Do not allow food benefits" check box (locking out food issuance) indicating that the participant must be counseled PRIOR to food issuance.
  - d. Once clinic staff becomes aware of an alleged participant violation, clinic staff has 10 days to contact the participant regarding the violation.
  - e. If the participant cannot be reached by telephone a certified letter must be sent. All attempted contacts with the participant, phone calls or delivery confirmation letter, should be documented in the comment section
  - f. Clinic staff is not permitted to divulge where the complaint originated (for example: the State agency, another WIC client, a vendor, third party, etc.) The identity of every complainant shall be kept confidential. The WIC client is simply informed that the clinic has received a complaint.

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- g. If the corrective action or sanction for the particular violation will involve only a warning, the violation can be discussed and the warning given over the telephone.
- h. If the corrective action or sanction may result in a repayment of benefits, suspension or disqualification, the client must be requested to come to the clinic within 30 days to discuss the alleged violation. The participant should be told that the meeting concerns an alleged violation and to bring their ID packet and all unused checks with them to the counseling appointment.
  - i. If the participant does not attend the appointment, the schedule screen and the comment screen will be documented and another appointment should be scheduled within the next thirty (30) days.
- i. At the client's next appointment or at the special counseling appointment,
  - i. clinic staff enters the appropriate sanction type in the Sanctions box.
  - ii. The start date and the end date of the sanction are selected. For a warning, the start date and the end date are the same date. For any other sanction type, an end date must be selected (such as 30 days into the future).
  - iii. If a repayment of benefits is being requested, mark the Claim Requested check box. Enter the amount of the claim into comments box.
  - iv. Select and print the notice of Program Violation, or in the case of a disqualification, print the Notice of Disqualification. Give the appropriate printed notice to the client. For clients who only speak Spanish, any text in English on these notices must be manually written in Spanish so that the client understands the violation and the sanction imposed.
  - v. Obtain a signature from the client using the electronic signature pad. The signature indicates understanding of the violation and sanction that was discussed.
  - vi. Upon completion of these steps, staff may uncheck the "Do not allow food benefits box" if it is appropriate for the client to continue to receive food benefits at that time.

### V. Corrective Actions

- a. Any violation and subsequent corrective actions can only be based on the food instruments/cash-value vouchers involved in the violation as defined in Section G. Another member of the family cannot be held accountable or have action taken against them if their food instruments/cash-value vouchers were not involved in the violation(s).

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- b. Corrective action can be assessed in the following certification period if the WIC participant was not counseled or corrective action taken during the certification period of the alleged violation.
  - c. **Mandatory Disqualification**
    - i. Except as provided in the Federal Register/Vol. 65, No. 251/§ 246.12/paragraphs (u)(2)(ii) and (u)(2)(iii), whenever the local agency assesses a claim of \$100 or more, assesses a claim for dual participation, or assess a second or subsequent claim of any amount, the local agency must disqualify the participant for one year.
    - ii. Referral to law enforcement authorities. When appropriate, the State or local agency must refer participants who violate program requirements to Federal, State, or local authorities for prosecution under applicable statutes. If the local agency becomes aware of any illegal activity when investigating a complaint or when dealing with participant violation, the local agency will contact their department attorney.
    - iii. Terminating a mandatory disqualification. The local agency may permit a participant to reapply for the Program before the end of a mandatory disqualification period if full restitution is made or a repayment schedule is agreed upon between the State Agency and the WIC participant or, in the case of a participant who is an infant, child, or under age eighteen (18), the State or local agency approves the designation of a proxy
    - iv. Exceptions to mandatory disqualification. The local agency may decide not to impose a mandatory disqualification if, within thirty (30) days of receipt of the letter requesting payment, full restitution is made or a repayment schedule is agreed on between the State Agency and the WIC Participant or, in the case of a participant who is an infant, child, or under age eighteen (18), the local agency approves the designation of a proxy.
  - d. **Suspension of Program Benefits** for violations not requiring a mandatory disqualification. A participant may have WIC Program benefits suspended for a period of one (1) to three (3) months in accordance with the corrective actions. If full restitution is made within 30 days of a request for repayment of benefits, a suspension may not be required.
  - e. **Warning.** For first offenses of violations not requiring mandatory disqualification, suspension, or a request for repayment of benefits, a warning may be given.
- VI. **Continuation of Program Benefits** - the participant shall be allowed to continue in the Program if :

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- a. In the case of a participant who is an infant, child, or under age eighteen (18), the local agency approves the designation of a proxy and documents this designation **in the Participant Violations screen.**
  - b. **WIC benefits may only be issued to the approved proxy during the timeframe that the disqualification or suspension would have been in place.**
- VII. **Time frame for Repeated Offenses.** The timeframe that the first offense is counted toward a subsequent or second offense or any repeated violations will be **one year** ~~within the cert period~~. The endorser/participant must be counseled regarding the first offense before an additional corrective action can be assigned for a repeated offense. **All violations within the family within the last year will be considered when determining the number of offenses. When a specific violation affects the benefits of multiple family members at the same time, this is considered to be a single violation.**
- VIII. **Notification.** At the time the local agency notifies a participant of a suspension/ disqualification, the local agency must advise the participant of the procedures to follow to obtain a fair hearing pursuant to § 246.9. Prior to disqualification, the participant must be given fifteen (15) days notice of the action to be taken against them. **The Notice of Program Violation or Notice of Disqualification** will serve as the notice if given fifteen (15) days prior to action taken.
- IX. **Claims against participants.** If the local agency determines that program benefits have been obtained improperly as defined under participant violations, the local agency must establish a claim against the participant for the full value of such benefits.
- a. For all claims, the local agency must issue a demand letter requiring repayment of benefits (Repayment of Benefits letter). If full restitution is not made to the State agency, or a repayment schedule is not agreed with the State WIC Office, or the first scheduled payment is not received within thirty (30) days of receipt date of the Repayment of Benefits letter, corrective action must be taken by the local agency in accordance to program violation procedures. The WIC client is not permitted to avoid suspension or disqualification if the claim is paid after the thirty (30) days has expired.
  - b. If the claim is not paid, the state agency may take additional collection actions until restitution is made or a repayment schedule is agreed on, unless the state agency determines that further collection actions would not be cost-effective.

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- c. Issuing the Repayment of Benefits letter requesting payment will be considered the minimum in establishing a claim or collection.
  - i. The Repayment of Benefits letter is a preprinted state form with an original and four (4) copies.
  - ii. One copy will be scanned into the VISION system.
  - iii. One copy will be sent to the State WIC Agency, Budget Coordinator,
  - iv. Two (2) copies will be given to the participant.
  - v. The WIC client will be instructed to send one copy of the Repayment of Benefits letter along with the payment by check or money order to the State WIC Agency using the address printed on the letter.
- d. If the WIC client wishes to establish a repayment schedule, then the WIC client must contact the State WIC Office prior to the end of the thirty (30) day repayment period. The WIC client cannot setup a repayment of benefits schedule after the thirty (30) days has expired.
- e. The local agency staff will not perform any transaction with the participant, pay the claim for the participant in whole or in part, nor collect any repayment of benefits at the local clinic.
- f. The WIC client who has been issued a Repayment of Benefits letter can only receive thirty (30) days of benefits until repayment has been received. If additional months of benefits have already been issued to the client, then the clinic must request the WIC client to return the additional benefits greater than thirty (30) days from the date the repayment of benefits letter was issued.
- g. Before further WIC benefits can be issued, the clinic must have received an email confirmation from the state that a payment has been received. If no payment has been received by (30) days of the repayment notification, no benefits can be issued.
- h. The WIC client should be instructed to contact the State WIC Office directly regarding whether a payment has been received.
- i. The State agency must document the disposition of all participant claims.
- j. **Procedures for calculation of claims**
  - i. Determine how long the inappropriate benefits were issued.
  - ii. Determine the WIC food instrument/cash-value voucher number(s) redeemed and

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- iii. Calculate the total dollar amount of food redemption for the length of time involved.
- iv. In the case of lost food instruments/cash-value vouchers that were redeemed, the amount of claim is based on the replacement food instruments/cash-value vouchers that were redeemed when the originally food instruments/cash-value vouchers have also been redeemed.

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### **G.7. Collection and Maintaining Information on Cases of Participant and Clinic Fraud and Abuse**

#### Policy

Procedure for the documentation, collection, and maintaining information on cases of participant and clinic fraud and abuse

#### Procedure

- I. Documentation of participant violations will be handled according to procedures outlined in Section G.6.
- II. Documentation of clinic fraud or abuse.
  - a. If the State Agency or the local agency determines that fraud or abuse of the WIC Program occurred by a clinic employee, a letter describing the details of the alleged abuse, including how the employee benefited for the alleged abuse and the total dollar loss to the Program, will be sent to the State WIC Office.
  - b. If the alleged abuse has occurred at the State Agency, the MCH Bureau director will investigate the allegations and provide written documentation of the outcome including any dollar loss to the WIC Program.
- III. If there is credible evidence that fraud and abuse in excess of \$1,000 or other major criminal activity has occurred, the State agency should immediately advise the Mountain Plains Regional Office, which will refer the case to Office of Inspector General. The State agency should hold further investigative/administrative action in abeyance, including referral to State, local, or other Federal law enforcement authorities, pending Office of Inspector General's decision on whether it will assume the investigation.
  - a. This applies to fraud and abuse in any FNS programs involving State agencies, local agencies, contractors, vendors, farmers, participants, or anyone else. Thus, State agency stakeholders or cooperators such as contractors must immediately report known or suspected instances of significant fraud and abuse to the State agency, so that the State agency may expeditiously refer such matters to the Mountain Plains Regional Office. State agencies must remind their stakeholders and cooperators of this responsibility.

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### G.8. Dual Participation

#### Policy

Definitions, detection, documentation, and resolution of dual WIC participation and dual participation in both WIC and CSFP. Dual WIC participation is defined as participants identified within a local agency/clinic or between local agencies as having applied for and received an over-issuance of benefits, meaning benefits received from more than one clinic in the same month. Dual participation in both the WIC Program and CSFP is defined as participants identified within the local agency/clinic as being enrolled and receiving benefits in both the WIC and CSFP programs at the same time.

#### Procedures

- I. **Intrastate Dual WIC Participation.** The Intrastate Dual Participation report in VISION is the result of a process that identifies individuals who are compared with the current Utah active participants. This screen will be generated by VISION on a daily basis. Clinic staff must view this screen first thing each morning to see if there are any possible duals that need to be resolved. Staff must research each possible dual to find out:
  - a. if there is a true dual who has received multiple benefits in the same month,
  - b. if a participant needs to be terminated, merged and deleted,
  - c. or, if the match was not a dual.
- II. It is often obvious that it is not a dual when the names are not similar; these may be quickly resolved. However, if dual participants are identified, the WIC clinic staff will need to:
  - a. Contact the other WIC clinic of enrollment and determine where the WIC client needs to be terminated.
  - b. If multiple benefits were received [i.e. the client was issued and redeemed checks for the same month(s)], then the clinic needs to initiate a participant violation and repayment of benefits.
  - c. The Help Desk will need to merge and delete one of the dual records. Submit the information to the Help Desk via email. Please include the following information:
    - i. Participant Name
    - ii. Family ID to keep
    - iii. Person ID to keep

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- iv. Family ID to delete
- v. Person ID to delete

III. When these actions have been completed, on the Intrastate Dual Participation screen, place a check in the box with the column marked, "Resolved" and document the outcome by selecting the appropriate option in the "Reason" drop down list. This list contains the options of:

**a. No dual- similar name**

- i. To be used when it is found that the two names are separate individuals with similar names and birthdates.

**b. No dual- twins**

- i. To be used when the system has flagged twins as a possible dual.

**c. No dual- other**

- i. To be used in situations where the names were found to be separate individuals but were flagged as a possible dual for some other reason.

**d. Dual- no multiple benefits**

- i. To be used when the names are found to be either a dual in the same clinic or the same person in different clinics but there has not been an over issuance of benefits.
- ii. One of these duals must be terminated.
- iii. Comments must be made regarding the resolution (i.e. why there was a dual, where terminated etc.).
- iv. The Help Desk must be notified via email to merge and delete one of the participants.

**e. Dual- multiple benefits**

- i. To be used for true duals who have applied for and received an over-issuance of benefits, meaning benefits received from more than one clinic in the same month.
- ii. Participants found committing dual participation **MUST** be terminated from one of the clinics involved or the clinic must terminate one of records enrolled in the same clinic immediately.
- iii. Comments must be made regarding the resolution.
- iv. The Help Desk must be notified.
- v. Follow the participant violation procedures if the participant redeemed the benefits from both clinics received for the same month.

IV. Oftentimes duals are in two different clinics. These names will show on both clinics' intrastate dual reports until one of the clinics resolve them. Once

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- resolved by one of the clinics, the dual will disappear from the report of both clinics. For this reason it is important that the clinic that is resolving the dual is the one that contacts the Help Desk to have the dual merged and deleted.
- V. Using the search functionality built into the VISION system properly and thoroughly will aid in preventing the accidental creation of dual participants.
- a. Before entering a new person, ask several questions to determine if the applicant should already have a record in the system.
  - b. Use multiple search methods to attempt to find a participant that should be in the system.
  - c. If assistance is needed, contact the Help Desk.
  - d. If no search results are found, setup the new participant and use the “Wild Card” check boxes on the Dual Search Screen to make sure the family does not exist already and move forward with the setup.
- VI. When a participant or an endorser has changed their name (new last name due to marriage/divorce etc.), Staff must click “edit” on the individual in the Family screen and then enter the new name and click on “Add to Aliases”.
- VII. **Interstate Dual WIC Enrollment.** Detection will be handled by the State WIC Office.
- a. In areas where a local agency serves a WIC population or operates a clinic site on or near a state border, or in proximity to another Indian or state WIC agency, the Utah WIC Program will enter into a Memorandum of Agreement with that agency for the detection and prevention of dual participation.
  - b. Immediate disqualification from one of the State Agency programs or clinics will be implemented for participants found in violation due to dual participation. Where deliberate misrepresentation is involved, the participant may be disqualified from participating in both State Agency programs or clinic as specified in § 216.12(k) (2).
  - c. The Interstate Dual report in VISION will be run and resolved by State staff. This report is the result of a process that reads an input file from another state and compares that list with the current Utah active participants.

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- d. The State WIC Office will notify clinics of any action that must be taken regarding possible participant violations found involving interstate dual participation.
- VIII. **Dual participation with WIC and CSFP.** Detection will be handled by the State WIC Office. The State WIC Office will notify clinics of any action that must be taken regarding possible participant violations for dual participation with CSFP.

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### G.9. Agency Conference & Fair Hearings (Participants or Applicants)

#### Policy

Procedures for agency conferences and fair hearings for WIC applicants and participants

#### Procedure

##### I. Definitions

- a. *Availability of hearings:* The State agency shall provide a hearing procedure through which any individual may appeal a State or local agency action which results in a claim against the individual for repayment of the cash value of improperly issued benefits or results in the individual's denial of participation or disqualification from the Program (7 CFR §246.9, (a)).
- b. *Request for hearing.* A request for a hearing is defined as any clear expression by the individual, the individual's parent, caretaker, or other representative, that he or she desires an opportunity to present its case to a higher authority. The State or local agency shall not limit or interfere with the individual's freedom to request a hearing. (7 CFR §246.9, (d)). Hearing requests by appellants can be made verbally, or in writing and delivered or sent to the State or local agency.
- c. When possible, an Agency Conference should be held to resolve the problem on the local level. An Agency Conference is defined as problem resolution discussion with the supervisory personnel of the clinic and the participant. The State Agency will have a representative present at all Agency Conferences. In participating in the Agency Conference, the participant agrees to try and resolve the problem. If the Agency Conference does not resolve the problem to the applicant's satisfaction, or if the applicant does not want an Agency Conference, she/he has the right to a Fair Hearing with the State Department of Health Hearing Officer.
- d. The participant must be informed that the Agency Conference is optional and that they have a right to a Fair Hearing instead.

##### II. Notification of Appeal Rights

- a. The local agency shall provide to all applicants and participants the statements on the appropriate forms that outline their right to an Agency Conference or Fair Hearing, including instructions for making the appeal. Applicants and participants shall also be informed of their right to be represented by a relative, friend, legal counsel, or other spokesperson.

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- b. Copies of the Agency Conference/Fair Hearing form shall be given to each person at the time of denial of participation or termination. **These provisions are included in the notices printed from the VISION system.**
- c. This notification is not to be given at the expiration of a certification period, unless their benefits may be jeopardized at the next certification visit (as would be the case when the Priority System is being used by a local agency).

#### IV. **The time limits concerning making an appeal are as follows:**

- a. Conference or Hearing must be requested within 60 days from the date of the notice of adverse action was mailed or given to the applicant by the local agency. (7 CFR § 246.9, (e)).
- b. The Conference should be held within two (2) weeks of the request. A Hearing must be held within three (3) weeks of receipt of request by the State Agency.
- c. Written notification of the decision made in the Conference must be made to the appellant by registered mail within fifteen (15) days; in the case of a Hearing, notification must be made within forty-five (45) days.
- d. If the appellant is not satisfied with the Conference decision, she/he may request a Hearing; this request must be made within sixty (60) days from the effective date of the adverse action taken by the local agency.

#### V. **Denial or Dismissal of Request (7 CFR §246.9, (f)).**

- a. The State and local agencies shall not deny or dismiss a request for a Hearing unless:
  - i. The request is not received within the sixty (60) day time limit set above.
  - ii. The request is withdrawn in writing by the appellant or a representative of the appellant.
  - iii. The appellant or representative fails, without good cause, to appear at the scheduled hearing; or
  - iv. The appellant has been denied participation by a previous hearing and cannot provide evidence that circumstances relevant to Program eligibility have changed in such a way as to justify a hearing.

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### V. Continuation of Benefits

- a. Participants who appeal the termination of benefits within the period of time provided as defined by this section must continue to receive Program benefits until the hearing official reaches a decision or the certification period expires, whichever occurs first. This does not apply to applicants denied benefits at initial certification, participants whose certification period has expired or participants who become categorically ineligible for benefits. Applicants who are denied benefits at initial certification, or participants who become categorically ineligible during a certification period (or whose certification period expires), may appeal the denial or termination, but must not receive benefits while awaiting the hearing (7 CFR §246.9, (g)).

### VI. Uniform Rules of Procedures

- a. Agency Conferences Procedures:
  - i. State and local agencies shall process each request for a hearing under uniform rules of procedure and shall make these rules of procedure available for public inspection and copying. At a minimum such rules shall include: The time limits for requesting and conducting a hearing; all advance notice requirements; the rules of conduct at the hearing; and the rights and responsibilities of the appellant. These procedures shall not be unduly complex or legalistic. (7 CFR §246.9, (h)).
  - ii. The Conference/Hearing shall be conducted by an impartial official who has no personal stake or involvement in the decision, and who was not directly involved in the initial determination of the action being contested. The hearing official shall: (7 CFR § 246.9, (i)).
    - (1) Administer oaths or affirmations if required by the State;
    - (2) Ensure that all relevant issues are considered;
    - (3) Request, receive and make part of the hearing record all evidence determined necessary to decide the issues being raised
    - (4) Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing;
    - (5) Order, where relevant and necessary, an independent medical assessment or professional evaluation from a source mutually satisfactory to the appellant and the agency; and

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- (6) Render a hearing decision that will resolve the dispute.
- iii. The hearing official shall mail a notice of the hearing, which includes an explanation of the procedure and the date, time, and place and reason for the Conference to the appellant and the appellant's representative. The Agency Conference will be scheduled within two (2) weeks of the date of request, unless both parties agree to an earlier date. The Hearing shall be accessible to the appellant and shall be held within three weeks from the date the State Agency received the request for a hearing. The State or local agency shall provide the appellant with a minimum of ten (10) days advance written notice of the time and place of the hearing and shall enclose an explanation of the hearing procedure within the notice.
- iv. Local agency staff that has knowledge of the dispute should be in attendance as well as legal counsel for the agency if the agency desires. The local agency shall have the opportunity to present oral and documentary evidence and to examine, question, or refute any testimony or other evidence, including the opportunity to confront and cross-examine witnesses.
- v. The agency representative shall conduct the Conference without unduly complex or legalistic procedures, taking into consideration the appellant's background and education.
- vi. The hearing official will also provide the appellant or representative an opportunity to: (7 CFR §246.9, (j)).
  - (1) Examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;
  - (2) Be assisted or represented by an attorney or other persons;
  - (3) Bring witnesses;
  - (4) Advance arguments without undue interference;
  - (5) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses; and
  - (6) Submit evidence to establish all pertinent facts and circumstances in the case.

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- vii. Decisions of the hearing official will be factually based on the hearing record. The verbatim transcript or recording of testimony and exhibits or official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding shall constitute the exclusive record for the final decision by the hearing official. This record shall be retained for four (4) years. This record shall also be available for copying and inspection, to the appellant or representative at any reasonable time (7 CFR §246.9, (k)).
- viii. A decision by the hearing official shall be binding on the local agency and should summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent regulations or policy. The decision shall become a part of the record.
- ix. Within forty-five (45) days of the receipt of the request for hearing, the appellant or representative shall be notified in writing of the decision and the reasons for the decision identifying the supporting evidence, pertinent regulations or policies.
- x. If the decision is in the favor of the appellant and benefits were denied or discontinued, benefits shall begin immediately. If the decision concerns disqualification and is in favor of the agency, as soon as administratively feasible, the local agency shall terminate any continued benefits, as decided by the hearing official.
- xi. The appellant may appeal a local hearing decision to the State Agency, provided that the request for appeal is made within fifteen (15) days of the notice of the hearing decision.
- xii. Repayment of Certain Benefits by WIC Recipients
  - (1) When a State or local agency/clinic pursues collection of a claim against an individual participant who has been improperly issued benefits, the person shall be advised in writing of the reason(s) for the claim, the value of the improperly issued benefits, which must be repaid, and of the right to a fair hearing.
  - (2) If the decision regarding repayment of benefits by the appellant is in favor of the agency, the State or local agency shall resume efforts to collect the claim, even during pendency of an appeal of a local level fair hearing decision to the State agency.
  - (3) If the decision being appealed concerns disqualification from the Program, the appellant shall not continue to receive benefits while

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an appeal to the State agency of a decision rendered on appeal at the local level is pending.

- (4) The decision of a hearing official at the local level is binding on the local agency and the State agency unless it is appealed to the State level and overturned by the State hearing official.
- (5) The appellant may appeal a local hearing decision to the State Agency, provided that the request for appeal is made within fifteen (15) days of the mailing date of the hearing decision notice.
- (6) The State and local agency shall make all hearing records and decisions available for public inspection, and copying; however, the names and addresses of participants and other members of the public shall be kept confidential. (7 CFR §246.9, (k) (4)).

### VII. Fair Hearing Procedures

- a. If the Agency Conference does not resolve the appellant's dispute to her/his satisfaction, or the participant wants a Fair Hearing immediately, the State Office should be notified verbally or the Fair Hearing Request form should be sent directly to the State WIC Office. A Fair Hearing will be scheduled within three (3) weeks from the date the request is received by the State Office.
- b. The Hearing examiner will mail a notice of the Hearing which includes an explanation of the Hearing procedure and the date, time, place and reason for the Hearing to the appellant, any authorized representative of the appellant and the local agency at least ten (10) days before the Hearing, unless both parties agree to an earlier date. (7 CFR §246.9, (j))
- c. The Hearing Examiner shall conduct the Hearing using the uniform rules of procedures outlined above for the Agency Conference.
  - i. Decision
    - (1) An official report containing the substance of what transpired at the Hearing, together with the papers and requests filed in the proceedings shall constitute the exclusive record for the final decision by the Hearing official. This record shall also be available for copying and inspection, to the appellant or representative at any reasonable time.
    - (2) At the conclusion of the formal hearing, the hearing officer shall take the matter under advisement and shall submit to the executive

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director of the UDOH a proposed decision, based exclusively on evidence and other material introduced at the hearing.

- (3) The proposed decision shall be in writing and shall contain findings of fact and conclusions of law.
- (4) The executive director of the UDOH may adopt the proposed decision, or any portion of the decision, or he/she may reject the proposed decision, or any portion thereof, and make his own independent determination based upon the record; or, he/she may remand the matter to the hearing officer to take additional evidence. In the latter case, the hearing officer thereafter shall submit to the executive director of UDOH a new proposed decision. The final determination of the executive director for UDOH constitutes final administration action.
- (5) Within forty-five (45) days of the receipt of the request for a hearing, the appellant or representative shall be notified of the decision in writing, the reasons for the decision, and to the extent it is available to him/her, of his/her right to appeal to a Departmental hearing or judicial review.
- (6) If the decision is in the favor of the appellant and benefits were denied or discontinued, benefits shall begin immediately. If the decision concerns disqualification and is in favor of the agency, as soon as administratively feasible, the local agency shall terminate any continued benefits, as decided by the hearing official.

VII. **Rehearing:** All departmental hearing decisions shall be accessible to the public (subject to provisions of safeguarding confidential information). Time for Filing. Any petition for rehearing must be filed no later than within ten (10) days after receipt of notice of the executive director's final determination.

- a. Contents of Petition. A petition for rehearing shall set forth specifically the detail and particulars in which it is claimed the order is unlawful, unreasonable, or unfair. If the petition is based upon a claim that the hearing officer failed to consider certain evidence it shall include an abstract of that evidence. The petition may be based upon newly discovered evidence. When such ground is used, the petition shall be accompanied by an affidavit setting forth the nature and extent of such evidence, its relevancy to the issues involved, and a statement that the party could not with reasonable diligence have discovered the evidence prior to the hearing.

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- b. Action on Petition. Upon the filing of a petition for rehearing, the hearing officer may set a time for hearing said petition or may summarily grant or deny the petition in whole.
- c. Rehearings Limited. If an order is made granting the petition for rehearing, it shall be limited to the matter specified in the order. Upon rehearing, the hearing officer may confirm the former judgment, reverse, change, or modify the same in any particular. Such order and decision shall have the same force and effect as the original order but shall not affect any right or the enforcement of any right arising out of or by virtue of the original order unless so ordered by the hearing officer.
- d. Action on Petition. The hearing officer will act upon a petition for rehearing within thirty (30) days from the date of its filing. If no action is taken by the hearing officer within such time, it shall be deemed to be denied.
- e. Submission of a petition for rehearing will automatically stay an order until final resolution of the petition unless otherwise determined by the hearing officer.

### VIII. Judicial Review

- a. Judicial review of a final determination of the executive director may be secured by the aggrieved party by filing a petition in the district court within thirty (30) days after receipt of notice of the executive director's final determination.
- b. The petition, which shall be served upon the executive director, shall state the grounds upon which review is sought. With his/her answer, the executive director shall certify and file with court all documents and papers and a transcript of all testimony taken in the matter, together with the recommended findings of fact and conclusions of law of the hearing officer, and the final determination of the executive director.
- c. If the final determination of the executive director is consistent with the findings of fact and conclusions of law recommended by the hearing officer, the court shall review the record and may alter the final determination only upon a finding that the final determination is capricious, or not supported by the evidence.
- d. If the final determination of the executive director is not consistent with the findings of fact and conclusion of law recommended by the hearing officer, the executive director shall prepare and file with the court at the time of filing the answer to the petition, findings of fact and conclusions of law to support the final determination of the executive director. The petitioner

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shall have fifteen (15) days after receipt of the executive director's findings of fact and conclusions of law to amend the petition for review. The court may affirm or amend the final determination of the executive director, or require further or additional testimony necessary to be taken, and issue an order based on its own findings of fact and conclusions of law.

### IX. Appeals of vendors or local agencies

- a. Food vendors or local agencies which have been adversely affected by a State Agency decision may request an Agency Conference with the State WIC Office, or a Fair Hearing as specified above.
- b. The uniform rules of procedures set forth above apply and will be followed.
- c. The State agency shall provide a hearing procedure whereby a food vendor or local agency adversely affected by a State or local agency action may appeal the action.
- d. The right of appeal shall be granted when a local agency's or a food vendor's application to participate is denied, or during the course of the contract or agreement when a local agency or vendor is disqualified or any other adverse action which affects participation is taken. Expiration of a contract or agreement with a food vendor or local agency shall not be subject to appeal.
- e. The adverse action affecting a participating local agency shall be postponed until a hearing decision is reached.
- f. The State agency may take adverse action against a vendor after the thirty (30) day advance notification period mandated by paragraph (2) (a) of this section has elapsed. In deciding whether or not to postpone adverse action until a hearing decision is rendered the State Agency shall consider whether participants would be unduly inconvenienced and may consider other relevant criteria, determined by the State agency.
- g. The State agency hearing procedure shall at a minimum provide the local agency or vendor with the following:
  - i. Written notification of the adverse action, the cause(s) for and the effective date of the action. Such notification shall be provided to participating food vendors not less than one month (30 days) in advance of the effective date of the action. In the case of the disqualification of local agencies, the State agency shall provide not less than sixty (60) days advance notice of pending action.

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- ii. The opportunity to appeal the adverse action within a time period specified by the State agency in its notification of adverse action.
- iii. Adequate advance notice of thirty (30) days will be given as to the time and place of the hearing to provide all parties involved sufficient time to prepare for the hearing.
- iv. The opportunity to present its case and at least one opportunity to reschedule the hearing date upon specific request.
- v. The opportunity to confront and cross examines adverse witnesses.
  - (1) When WIC vendors are disqualified based on a Food Stamp Disqualification, the Food Stamp investigator will not appear at a State level hearing unless subpoenaed.
- vi. The opportunity to be represented by counsel, if desired.
- vii. The opportunity to review the cause record prior to the hearing.
- viii. An impartial decision maker, whose decision as to the validity of the State or local agency's action shall rest solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the Program. The basis for the decision shall be stated in writing although it need not amount to a full opinion or contain formal findings of fact and conclusions of law.
- ix. Written notification of the decision concerning the appeal, within sixty (60) days from the date of receipt of the request for a hearing by the State agency.
- h. Appealing an action does not relieve a local agency or a food vendor permitted to continue in the Program while its appeal is in process from the responsibility of continued compliance with the terms of any written agreement or contract with the State or local agency.
- i. If a State level decision is rendered against the local agency or food vendor and the appellant expresses an interest in pursuing higher review of the decision, the State agency shall explain any further State level review of the decision and any available State level rehearing process. If neither is available or both have been exhausted, the State agency shall explain the right to pursue judicial review of the decision.

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### **FAIR HEARING**

If the clinic takes any adverse action against you, you have the right to ask for an informal meeting or a formal hearing. This action may include not being put on or being taken off of the program, or having to pay back the value of food improperly given to you.

You may wish to contact a local legal service office or other community program. They can help you decide if you should ask for a meeting or a hearing. You may be able to receive free legal aid. Ask your local WIC clinic where this may be obtained. You may bring an attorney or any other person with you to the meeting or hearing.

If you feel you are not being treated fairly, you may ask for a meeting with your local WIC Clinic Supervisor. You must ask for this meeting within sixty (60) days from the date of action. At this meeting, you may discuss any items about the WIC Program you do not agree with.

If the meeting with the local clinic does not resolve your complaint or you would like a formal hearing, you should contact the State WIC office. You may do this by phone, in writing, or in person. You must ask for the hearing within sixty (60) days of the date the action was taken against you.

If you are taken off of the program any time during your certification period you should appeal the action within fifteen (15) days. You will then receive vouchers until your hearing is resolved or your certification period ends, whichever occurs first.

Utah Department of Health  
Division of Family Health & Preparedness  
Utah WIC Program  
288 North 1460 West PO Box 141013  
Salt Lake City, Utah 84114-1013  
(801) 538-6960 or 1-877-942-5437

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### **AUDIENCIAS IMPARCIALES**

Si la clínica tomara alguna medida adversa en su contra, usted tiene el derecho de solicitar una reunión informal o una audiencia formal. Por medida adversa se puede entender el no ser considerada para el programa o ser retirada de el, o el tener que pagar por la comida que se le haya dado indebidamente.

Si lo desea puede ponerse en contacto con una oficina local de servicio legal u otro programa de la comunidad. Ellos pueden ayudarle a decidir si usted debe solicitar una reunión o una audiencia. Es posible que reciba asistencia legal gratis. Pregunte en la clínica local del WIC donde puede obtener dicho servicio. Puede pedir que la acompañe un abogado o cualquier otra persona a la reunión o a la audiencia.

Si considera que no se le esta tratando imparcialmente, puede pedir que se le permita reunirse con el supervisor de la clínica local del WIC. Debe solicitar dicha reunión dentro de los 60 días posteriores a la fecha de la acción. En esa reunión puede tratar cualquier aspecto del Programa WIC con el que no este de acuerdo.

Si el mencionado procedimiento no resuelve su problema o si quisiera que se le concediera una audiencia formal, debe ponerse en contacto con la Oficina del WIC del estado, lo cual puede hacer por teléfono, pos escrito, o en persona. Debe solicitar la audiencia dentro de los 60 días posteriores a la fecha en que se tomo la acción en su contra.

Si se le retirara del programa en cualquier momento durante su periodo de certificación debe apelar la acción dentro de los 15 días siguientes. Entonces recibirá vales hasta que se lleve a cabo su audiencia o hasta que termine su periodo de certificación, lo que quiera que ocurra primero.

Utah Department of Health  
Division of Family Health & Preparedness  
Utah WIC Program  
288 North 1460 West PO Box 141013  
Salt Lake City, Utah 84114-1013  
(801) 538-6960 or 1-877-942-5437

# Utah WIC Policy and Procedures Manual

## Section G: Ineligibility

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### **WIC VENDOR ADMINISTRATIVE REVIEW REQUEST FORM**

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If the State Agency takes any adverse action against you, you have the right to ask for an Administrative Review.

You may wish to contact a legal service office or obtain legal assistance. They can help you decide if you should ask for a meeting or a hearing. You may bring an attorney or any other person with you to the Administrative Review.

If you want an Administrative Review, please contact:

**Utah Department of Health ■ Division of Family Health and Preparedness ■ Utah WIC Program**  
**State Vendor Management Coordinator**  
**PO Box 141013 ■ Salt Lake City, Utah 84114-1013**  
**538-6960 or 1-877-942-5437**

If you do ask for an Administrative Review, be aware that you have certain rights. These are:

1. The right to appeal the State's decision to sanction your store. You may make this request verbally or in writing. You must make this request within thirty (30) calendar days from the effective date of the sanction. Please contact the State WIC Agency at the following address and phone:
2. The Administrative Review will be held within three (3) weeks from the date of receipt of the request. At least ten (10) days advance notice will be given to the individual/vendor, specifying the time and place of the hearing. Appealing adverse action and its process does not relieve the vendor from responsibility of continuing compliance with their terms of the agreement with the Utah WIC Program.
3. The right to receive advance notice of the time and place of the Hearing.
4. The right to present your case. This includes the right to one opportunity to reschedule your hearing upon making a written request. This request must be received by the Hearing Officer before the originally scheduled Hearing.
5. The right to confront and cross-examine any witnesses. Where WIC vendors are disqualified based on a Food Stamp disqualification, the Food stamp investigator will not appear at a State level hearing unless subpoenaed.
6. The right to be represented by a lawyer, yourself, or anyone else that you choose.
7. The right to review any case record prior to the Hearing.
8. The right to an impartial decision maker.
9. The right to receive written notification of the decision on the appeal. You have the right to receive this decision within sixty (60) calendar days from the day you filed for the appeal.

All vendors participating in the Utah WIC Program have the right to a Fair Hearing when any adverse action (i.e.: sanction points, denial of payment, disqualification or denial of application) could affect the vendor's participation in the WIC Program. Expiration of a contract or agreement with a food vendor is not subject to appeal. Requests for a Fair Hearing must be made within thirty (30) days from the date of the notice of adverse action. Direct all requests for a Fair Hearing to the State WIC Office.

In accordance with Federal Law and Department of Agriculture (USDA) policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410, or call (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech

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disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.