



POLICY: WIC benefits shall be provided to the legal guardian(s) of a child. Proof of legal guardianship shall be required when guardianship is changed.

PURPOSE: The WIC Program's role is only to determine to whom food instruments (FIs) should be issued based on the information WIC staff have available, not to decide any custody issues.

RELEVANT REGULATIONS: 7CFR §246.12 ¶(r)(1)(I)—Food Delivery Systems

OREGON WIC PPM REFERENCES:

- ◆450—Confidentiality
- ◆485—WIC Family Number and ID Card
- ◆505—Food Instrument Issuance and Printing
- ◆590—Program Integrity: Participant Violations
- ◆610—Proof of Identity and Residency
- ◆617—Income Eligibility: Determination of Income Eligibility
- ◆635—Participant Notification: Eligibility and Rights & Responsibilities

TWIST TRAINING MANUAL REFERENCES: Chapter 3, Lesson 808—Foster Families and Custody Changes

DEFINITIONS: *Proof of guardianship* Court documents identifying the legal guardian(s).

Shared guardianship When the custody of a child is split between two parents or caretakers. The guardianship may be split where the child spends the majority of the time with one caretaker, or joint, where the child spends 50 percent of the time with each caretaker.

Foster parent State appointed guardian for children involved in protective services.

PROCEDURE:

- Documentation of guardianship*
- 1.0 Confirm guardianship by obtaining a copy of court or other legal documents whenever possible.
 - 1.1 An official document such as the Oregon Health Plan (OHP) card or facsimile from the office of Children, Adults and Families (CAF) showing the new guardian's name is also acceptable.

EXAMPLE: Child enters or changes foster care and foster parent has an OHP card for the child.

CHANGE IN GUARDIANSHIP, cont.

(Documentation of guardianship:)

1.2 Local program staff may accept a written note from the previous guardian regarding the change if there is no official documentation.

EXAMPLE: Parent leaves the child with a relative for a specified period of time. Local program staff may accept a signed note from the parent stating the change of guardianship.

Legal documents are unavailable

2.0 When legal documentation is not available, staff may need to contact the social worker, case manager, public health nurse or other appropriate individual to confirm guardianship.

2.1 If staff is unable to obtain court documents or verify guardianship with outside agencies, the person with physical custody of the child at the WIC appointment is determined to be the guardian for the purpose of issuance of WIC benefits.

2.1.1 Complete the “*No Proof for Special Situations*” affidavit (form 57-633) and have the guardian sign the form.

Custody dispute

2.2 If there is a custody dispute, issue FIs to the guardian on record. The person(s) disputing the guardianship must supply records to the clinic that prove that they are the current guardian.

2.3 In this situation, issue FIs for one month at a time until the custody dispute is resolved. See ♦505—Food Instrument Issuance and Printing for more information.

2.4 Benefits **cannot** be withheld because of staff suspicions related to a custody dispute.

2.5 Local programs may need to consult with their own legal counsel if a situation becomes too difficult or confrontational.

Documentation in TWIST

3.0 Issue a new WIC ID number in TWIST for the child. **After** the new WIC ID number has been assigned, verify proof of identity and change the guardian name and address. Refer to Chapter 3, Lesson 808 in the TWIST Training Manual for guidance on changing the WIC ID number. Also see ♦485—WIC Family Number and ID Card, and ♦610—Proof of Identity and Residency.

3.1 If the new guardian does not have documents showing the change in custody, issue FIs for one month at a time until proofs are brought in. See ¶2.0 above for other options.

3.2 Document any guardianship issues in the child’s TWIST record. Consider using the “Sensitive Notes” function to ensure confidentiality.

CHANGE IN GUARDIANSHIP, *cont.*

Rights and responsibilities 4.0 Provide the guardian with a copy of “*My Rights and Responsibilities*” (form 57-630) and ensure s/he understands the content of the form. Have the guardian sign the “*Participant Signature Form*” (form 57-629) and provide instructions on shopping with FIs. Refer to ♦635—Participant Notification: Eligibility and Rights & Responsibilities for more information.

4.1 Advise guardian to notify the local program immediately if guardianship changes and to return unused FIs or unused formula to the WIC program if the child moves to a new guardian or foster home.

Foster parents 5.0 If the new guardian is a foster parent, follow the procedures in ♦450—Confidentiality, to protect the confidentiality of the foster parent.

Replacing FIs issued to previous guardian 6.0 If FIs have been issued to the previous guardian and were not given to the new guardian, void the original FIs using the void reason “Change in Custody” and issue a replacement set of FIs to the new guardian along with a new WIC ID card.

NOTE: A new WIC ID number *must* be assigned before replacing the FIs from the previous guardian.

6.1 Issue a full food package, unless it is after the 20th of the month. In that situation, issue a partial package.

6.2 Replace FIs according to local procedure.

6.2 Contact the former guardian and request the return of unused WIC FIs as appropriate.

6.3 If unused WIC FIs are not returned, follow up with the state WIC Compliance Coordinator regarding possible program abuse. See ♦590—Program Integrity: Participant Violations for procedures and TWIST documentation requirements.

Shared guardianship 7.0 In shared guardianship situations, issue WIC benefits to the guardian with whom the child lives the majority of the time. Refer to ♦617—Income Eligibility: Determination of Income Eligibility, for determination of income and benefits for shared guardianship.

7.1 If the guardian who cares for the child more than 50 percent of the time is not income eligible for WIC or does not want to apply for WIC benefits, the other guardian may apply for WIC if they are responsible for providing meals for the child.

CHANGE IN GUARDIANSHIP, cont.

(Shared guardianship:)

7.1.1 If the WIC-eligible guardian has the child less than 50 percent of the time, staff may tailor the food package.

- For infants, tailor the formula package to provide an appropriate amount of formula based on the percentage of time the infant spends in the household.
- For children, tailor the food package to provide an appropriate amount of food based on the percentage of time the child spends in the household.

Joint guardianship

8.0 In joint guardianship situations where the child lives with each guardian 50 percent of the time, issue WIC benefits to the guardian who applies first for WIC.

8.1 Inform both guardians that WIC foods can be shared in separate households if this arrangement is in the best interest of the child.

8.2 WIC FIs cannot be split between two guardian households.

8.3 When guardians do not agree to share WIC foods for the child, staff may tailor the food package to reflect an appropriate amount of food based on the percentage of time the child spends in the household through which WIC benefits are received. ★

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