



## Policy 410

### Administrative Appeals for Local Programs

September 23, 2020

#### POLICY

WIC local agencies may request a review of decisions made by the state WIC office when their participation in WIC is denied or disqualified, or when any action is taken that adversely affects their participation in the program.

#### PURPOSE

To give local agencies an opportunity to review (appeal) adverse decisions affecting them.

#### RELEVANT REGULATIONS

7 CFR §246.18—[Administrative Appeal of State Agency Decisions](#)

ORS 183—[Administrative Procedures Act; Review of Rules; Civil Penalties](#)

#### DEFINITIONS

**Adverse action (taken against local agency):** Any action taken by the state WIC office against the local agency that would affect their participation in the WIC program.

**Disqualification (of local WIC agency):** The act of ending the WIC program participation of an authorized local agency, whether as a sanction or for administrative reasons.

**Denial (of local WIC agency application):** The act of denying a local agency application for WIC program participation as an authorized WIC local agency.

**Request for hearing:** A local agency's appeal rights and ability to request a hearing to appeal the decision of the state WIC program.

#### PROCEDURE

##### Denial of local agency application

- 1.0 Notice of denial and request for hearing
  - 1.1. Denials of local agency applications for authorization to participate in the Oregon WIC program are effective immediately.
  - 1.2. The state WIC office will provide the local agency with written notification of the denial of application to participate as an authorized Oregon WIC program local agency and notice of right to request a hearing.
    - 1.2.1. Notification of denial of application will include the following:
      - 1.1.1.1 The action(s) being taken;
      - 1.1.1.2 The cause(s) for the action and jurisdiction to take the action;
      - 1.1.1.3 Effective date of application denial (immediate);

- 1.1.1.4 Relevant sections of statutes and rules involved;
  - 1.1.1.5 The opportunity to request a hearing and within what time frame;
  - 1.1.1.6 The circumstances under which a default order may be entered; and
  - 1.1.1.7 Active duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act and will be informed of who to contact.
- 1.3. The local agency will have 30-days to request a hearing pursuant to the Contested Cases section of [ORS 183](#).
- 1.3.1. If the local agency requests a hearing the local agency will receive a formal notification with all information about the hearing and procedures according to ORS 183.413. After the hearing and order have been issued, the notice of final order and petition for Judicial Review will be sent to the local agency.
  - 1.3.2. If the local agency does not request a hearing a notice of default final order and petition for Judicial Review will be issued.
- 1.4. A local agency whose application to participate in the Oregon WIC Program has been denied shall not be eligible to participate pending the appeal decision.
- 2.0 Notice of final order and petition for Judicial Review
- 2.1. A notice of final order and instruction for petition for Judicial Review will be sent to the local agency.
  - 2.2. If the final order is adverse, either through default or hearing, the local agency may file a petition for Judicial Review.
    - 2.2.1. A petition for Judicial Review must be filed with the Court of Appeals within 60-days, beginning on the date stated in the notice, pursuant to [ORS 183.482](#).
    - 2.2.2. All appeal rights are considered exhausted and the adverse action is effective the day after the 60<sup>th</sup> day allowed to petition for Judicial Review.

### **Disqualification of or other adverse action against local agency**

- 3.0 Notification of adverse action(s) and request for hearing
- 3.1. The state WIC office will provide the local agency with written notification of adverse action(s) and notice of right to request a hearing.
    - 3.1.1. Notification of adverse action(s) will include the following:
      - 3.1.1.1. The action(s) being taken;
      - 3.1.1.2. The cause(s) for the action and jurisdiction to take the action;
      - 3.1.1.3. Relevant sections of statutes and rules involved;

- 3.1.1.4. The opportunity to request a hearing and within what time frame;
  - 3.1.1.5. The circumstances under which a default order may be entered; and
  - 3.1.1.6. Active duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act and will be informed of who to contact.
- 4.0 The local agency will have 30-days to request a hearing pursuant to the Contested Cases section of [ORS 183](#).
- 4.1. If the local agency requests a hearing the local agency will receive a formal notification with all information about the hearing and procedures according to ORS 183.413. After the hearing and order have been issued, the notice of final order and petition for Judicial Review will be sent to the local agency.
- 4.2. If the local agency does not request a hearing a notice of default final order and petition for Judicial Review will be issued.
- 5.0 Notice of final order and petition for Judicial Review
  - 5.1. A notice of final order and instruction for petition for Judicial Review will be sent to the local agency.
  - 5.2. If the final order is adverse, either through default or hearing, the local agency may file a petition for Judicial Review.
    - 5.2.1. A petition for Judicial Review must be filed with the Court of Appeals within 60-days, beginning on the date stated in the notice, pursuant to [ORS 183.482](#).
    - 5.2.2. All appeal rights are considered exhausted and the adverse action is effective the day after the 60<sup>th</sup> day allowed to petition for Judicial Review.

### **Continuing responsibilities**

- 6.0 When a participating local agency files an appeal, the adverse action may not become effective until a hearing decision is reached.
  - 6.1. Appealing an action does not relieve the local agency of the responsibility of continued compliance with the terms of any written agreement with the Oregon Health Authority, including assurances to comply with all USDA regulations, and the state WIC program Policy and Procedure Manual.

### **Reapplication after disqualification**

- 7.0 Disqualified local agencies can reapply after a 1-year waiting period, that begins on the effective date of the action.

**If you need this in large print or an alternate format, please call 971-673-0040.**

**This institution is an equal opportunity provider.**

## **POLICY HISTORY**

<b>Date</b>	<b>* Major Revision, Minor revision</b>
9/23/2020	Major revision

The date located at the top of the policy is the implementation date unless an “effective date” is noted on the policy. Policies will become compliance findings 6 months from the implementation date.

Release notes can be found in the corresponding document on the [Policy and Procedure Manual page](#).

**\*Major Revisions:** Significant content changes made to policy.

**Minor Revisions:** Minor edits, grammatical updates, clarifications, and/or formatting changes have occurred.

**Date of Origin:** Date policy was initially released