



Policy 458

Appeals Process (Fair Hearing) for Participants

January 8, 2021

POLICY

Each WIC participant or applicant has the right to appeal a local or state WIC program decision that results in a claim against the individual for repayment of the cash value of improperly received or used benefits, or in the person's disqualification, or termination from, or denial of participation in the WIC program.

PURPOSE

To give individuals a method of requesting a review of WIC program decisions regarding repayment and/or eligibility when they feel they have not been treated fairly.

RELEVANT REGULATIONS

7 CFR §246.9—[Fair hearing procedures for participants](#)

OAR 333-053—[Special Supplemental Nutrition Program for Women, Infants and Children \(WIC\) Participant Administration](#)

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

OREGON WIC PPM REFERENCES

- ◆ [590—Program Integrity: Participant Violations](#)
- ◆ [636—Participant Notifications: Ineligibility and Termination from WIC](#)

APPENDICES

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DEFINITIONS

Appeal: Review of an agency decision by a neutral third party through a fair hearing.

Adverse Action: any negative action taken by the local or state agency due to participant violations that negatively impacts the participant or their participation in the program.

Fair Hearing: A process applicants and participants are entitled to under federal regulation and state statute. A fair hearing is provided as part of the appeal process and is scheduled once an appeal request is made. The fair hearing is conducted by a neutral third party.

Disqualified: Termination of a participant from WIC and cessation of WIC benefits for a specific amount of time, due to a participant violation. The participant may reapply for benefits at any time after the sanction period is over.

Ineligible: Does not meet the eligibility requirements necessary to participate in the WIC program, and therefore, is not certified as a WIC participant.

No Longer Eligible: Current participants who and are no longer eligible to participate for various reasons such as turning 5-years old, meeting the post-partum eligibility period, change in income, not fulfilling recertification requirements, etc.

Requesting a Fair Hearing: Any clear expression by the individual or the individual's parent, caregiver, or other representative, that he/she/they desire an opportunity to present his/her/their case to a higher authority.

Termination: A participant is terminated from the program when a participant's record is closed and benefits cease for any reason, including not meeting eligibility requirements, transferring out of state, etc. If the participant has been terminated from the program due to a participant violation, it is considered a disqualification.

PROCEDURE

Right to appeal

- 1.0 The following individuals will be notified in writing of the reason for an action, their appeal rights, and how to submit an appeal. See [◆636—Participant Notification: Ineligibility and Termination from WIC.](#)
 - A WIC applicant denied participation,
 - A WIC participant who is no longer eligible and,
 - A WIC participant who has been disqualified or has an adverse action taken against them.

Record review for ineligible applicants or no longer eligible participants

- 2.0 If a participant is found ineligible to receive program benefits or is no longer eligible for the program, he/she/they may make a written or verbal request to the local WIC Coordinator for review of the decision. The request should be documented in the participant's record with the date received and name of person requesting the review.
 - 2.1. The WIC coordinator may reverse the decision after reviewing the facts and issues for individuals who were ineligible applicants or no longer eligible participants. See [◆600—Certification Overview](#)
 - 2.1.1. The WIC coordinator may seek guidance from the state WIC program prior to issuing a decision.
 - 2.1.2. The WIC coordinator should document their review findings and decision in the participant's record with a summary of findings and the date they notified the participant(s).
 - 2.2. Making this request is not considered submitting an appeal and does not stop or pause the time allowed to submit an appeal. If the participant wants to appeal the decision, they must follow the steps in their notice.

Appeal/Fair hearing request

- 3.0 An appeal request is the same as a fair hearing request. The fair hearing is provided as part of the appeal process by the State Agency. See Appendix A for additional information about the timeline and events of an appeal request and fair hearing.
 - 3.1. An appeal/fair hearing may be requested by one of two methods:
 - A written statement made by the participant or representative outlining the reasons he or she believes the program decision is wrong. This statement must include the name, current address and current phone number of the

participant or representative for further communication and that they are appealing the decision or by;

- Completing and submitting the “Administrative Hearing Request” form (form MSC 0443, available online at <https://www.oregon.gov/oha/ph/HealthyPeopleFamilies/wic/Documents/administrative-hearing-request.pdf>).

3.2. All requests for an appeal/fair hearing must be submitted to the state WIC [Compliance & Civil Rights Coordinator](#) within 60-days from the date of the action and appeal rights notification.

3.3. Once a request for a fair hearing has been submitted to the state WIC [Compliance & Civil Rights Coordinator](#), all communication regarding the appeal/fair hearing will be made by the state agency. The state agency will notify the local WIC Coordinator that an appeal request was made.

3.4. Upon conclusion of the hearing, a written summary of the hearing decisions will be sent to the local WIC coordinator.

Continuation of benefits

- 4.0 In certain circumstances, participants who are no longer eligible and appeal the decision may continue to receive benefits for a period of time. See ♦ Appendix B for additional information on benefit issuance.

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

Date	* Major Revision, Minor revision
1/8/2021	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.

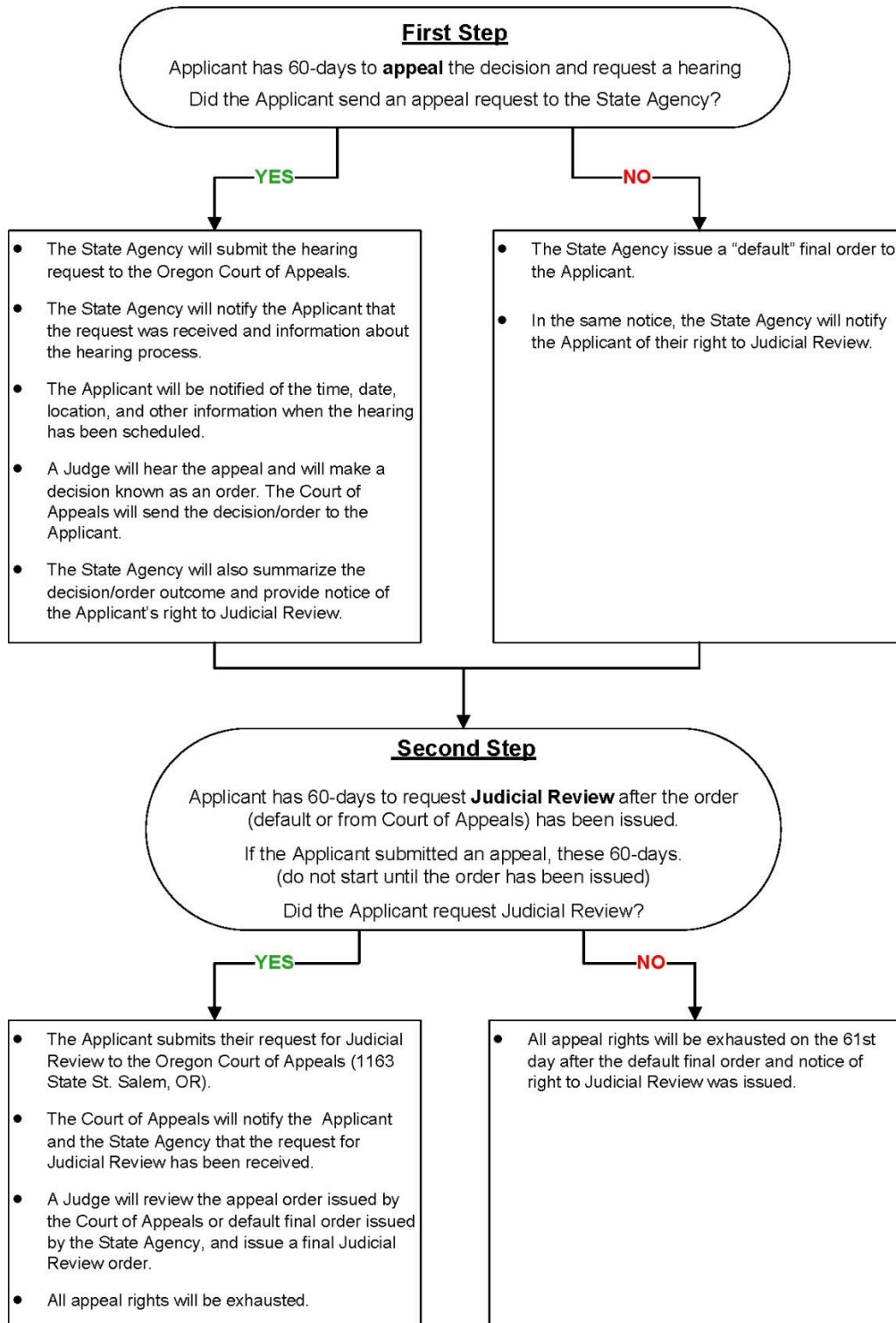
Minor Revisions: Minor edits, grammatical updates, clarifications, and/or formatting changes have occurred.

Date of Origin: Date policy was initially released

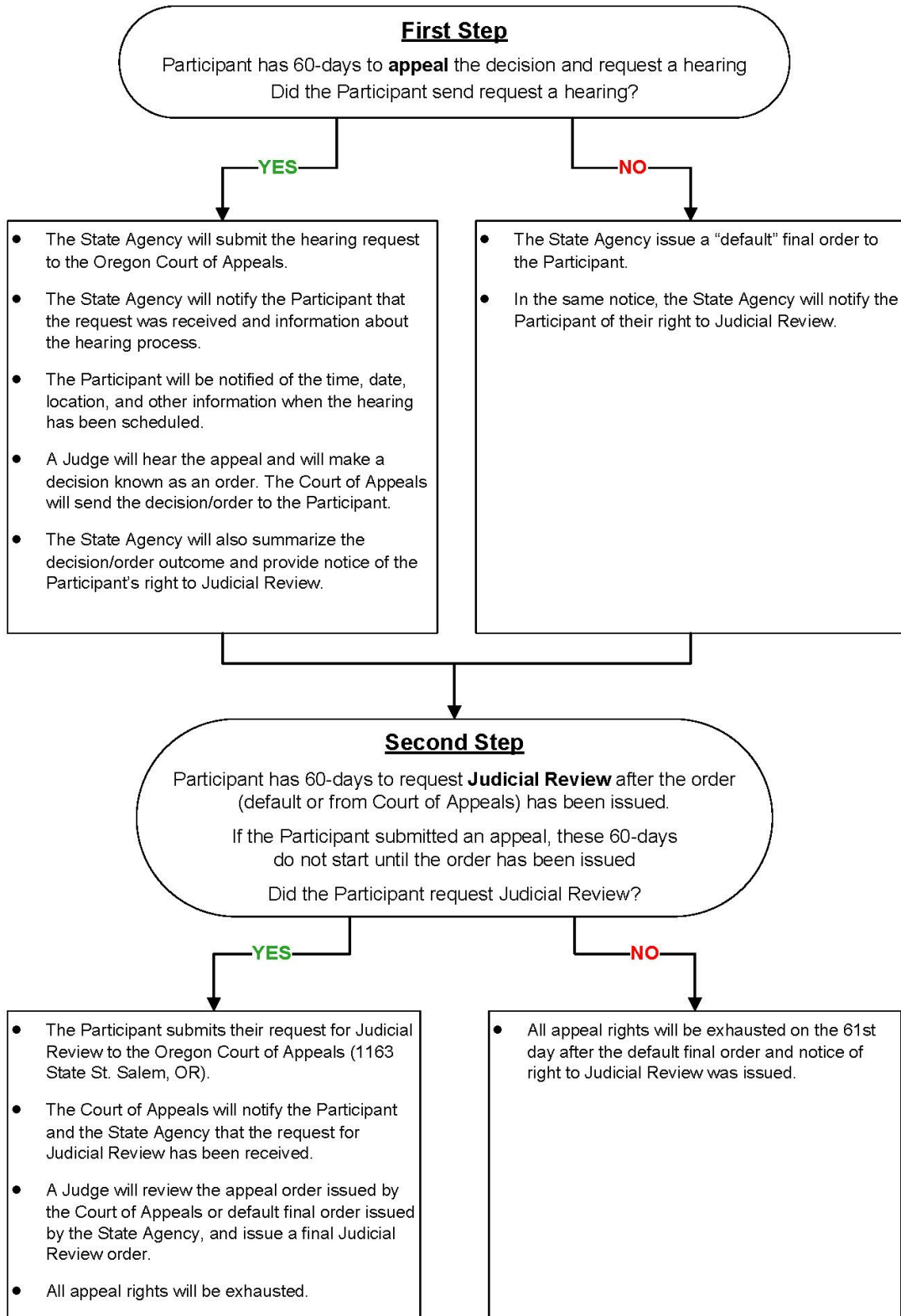
APPENDIX A

Appeal, Fair Hearing, and Judicial Review procedures

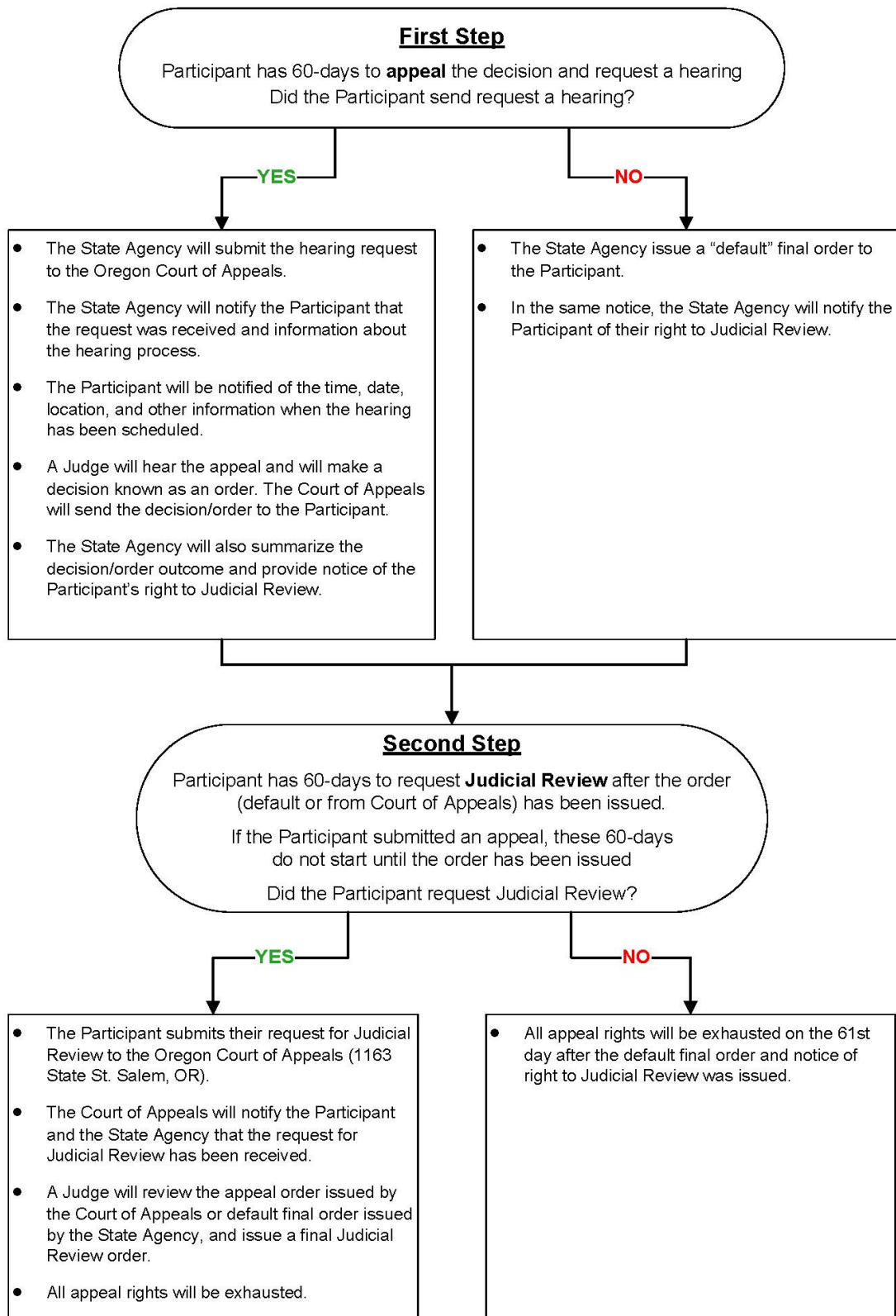
INELIGIBLE



No Longer Eligible



Disqualification or Adverse Action



APPENDIX B

Appeal continuation of benefits requirements

Ineligible (Not Currently Certified)	No Longer Eligible (Participant)	Disqualification or Adverse Action (Participant)
<p>Applicant was not certified, so never received benefits. Not eligible for continuation of benefits.</p>	<ul style="list-style-type: none"> • Categorically ineligible participants will have benefits issued through the last month of their current certification period. At the end of the certification period, they will no longer receive benefits. • Participants whose certification period has expired will not receive benefits in future months after the certification expiration. 	<p>Participant within a current certification period.</p> <ul style="list-style-type: none"> • Appeals a disqualification (adverse action) within 15-days continue to receive benefits either until an appeal decision is made or the cert period ends – whichever comes first. • They still have 60-days to appeal, but if they do it within those first 15-days we do not terminate benefits.