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 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

OARs 333-053-0030 through 333-053-0110—WIC Participant Administration

OREGON WIC PPM REFERENCES

♦ 590—Participant Violations
♦ 636—Participant Notification: Ineligibility and Termination from WIC

APPENDICES

n/a

DEFINITIONS

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

Fair Hearing: A proceeding before an agency in which individual legal rights, duties, or privileges of specific parties are required by statute or constitution to be determined only after a hearing at which specific parties are entitled to appear and be heard; in which the agency has discretion to suspend or revoke a right or privilege or a person; for the suspension, revocation or refusal to renew or issue a license, where the applicant or licensee demands a hearing; or where the agency provides a contested case hearing by rule or by order.

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.

Requesting a Fair Hearing: Any clear expression by the individual or the individual’s parent, caretaker, or other representative, that he or she desires an opportunity to present his or her case to a higher authority.

Terminated: 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 Each WIC applicant denied participation and each participant disqualified or terminated from the program, or asked to repay the cash value of improperly received benefits, shall be notified in writing of the reason for the action, the right to appeal and the opportunity for a hearing. See 636—Participant Notification: Ineligibility and Termination.

Record Review for Ineligible or Terminated Participants

2.0 If a participant is found ineligible to receive program benefits or is terminated from the program, he or she may make an oral request for a review of the records by the local WIC coordinator before appealing.

2.1 The WIC coordinator may reverse the decision after reviewing the facts and issues. The WIC coordinator may seek guidance from the state WIC program prior to issuing a decision.

2.2 If the WIC coordinator does not reverse the decision after the review, the participant may request that the coordinator forward the case record to the state WIC program nutrition and local services manager for further consideration.

2.3 The state WIC program nutrition and local services manager shall review the case record and may reverse the decision of the local program at his or her discretion. The manager will discuss the issues with the participant and the WIC coordinator.

2.4 If the state WIC program nutrition and local services manager sustains the decision, the participant may request that the matter be set for a formal hearing.

Record Review for Disqualified Participants

3.0 If a participant is disqualified from the program, he or she may make an oral request for a review of the records by the state WIC operations manager before requesting a hearing.
3.0 If the participant makes an oral request to local program staff, they must refer the participant to the state WIC operations manager.

3.1 The state WIC operations manager may reverse the decision after reviewing the facts and issues.

3.2 If the state WIC operations manager sustains the decision, the participant may request that the matter be set for a formal hearing.

**Fair Hearing Request**

4.0 If the participant disagrees with the decision made by either the local WIC Coordinator or a state program manager, he or she may appeal the decision by submitting a formal request for a fair hearing.

4.1 A fair hearing may be requested by one of three 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;

- Filling out the provided “Administrative Hearing Request” form (form MSC 0443, available online at [http://public.health.oregon.gov/HealthyPeopleFamilies/wic/Documents/administrative-hearing-request.pdf](http://public.health.oregon.gov/HealthyPeopleFamilies/wic/Documents/administrative-hearing-request.pdf)); or

- Calling the WIC Operations Manager at the state WIC office and verbally stating the request.

4.2 All requests for a fair hearing must be submitted to the state WIC operations manager within 60 days of the date of notification of the original finding.

4.3 Once a request for a fair hearing has been submitted to the state WIC operations manager, all communication regarding the fair hearing will be made by the State.

4.4 Upon conclusion of the hearing, a written summary of the hearing decisions shall be sent to the local WIC coordinator.
Continuation of Benefits

5.0 In certain circumstances, applicants denied benefits and appealing the denial have the option to receive benefits while awaiting a record review or the decision of the hearings official:

5.1 WIC participants who are disqualified or terminated during a certification period shall receive a written notice of the impending disqualification at least 15 days before it takes effect. A participant who appeals the termination of benefits within the 15- days advance notice period shall continue to receive Program benefits until the hearing official reaches a decision or the certification period expires, whichever occurs first. Disqualifications or terminations based on failure to receive or use benefits or due to state funding shortages will not receive the 15-day notice.

5.2 Applicants who are denied benefits at initial certification, participants whose certification periods have expired, or participants who become categorically ineligible during a certification period may appeal the denial or termination within the 60 day timeframe but shall not receive benefits while awaiting the hearing or its results.

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

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