

MI-WIC POLICY

Administration

1.0 Administration

Effective Date: 05/19/2016

1.04 Fair Hearing Procedures for Clients

PURPOSE: This policy establishes the procedures under which an individual, parent, guardian or other representative may appeal an adverse action made by the State or a local WIC agency.

A. POLICY:

1. Availability of Hearings

- a. The local agency shall provide a fair hearing for an adverse action made by the agency, 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 Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).
- b. The local agency shall appoint an impartial hearing official or panel to conduct the hearing, who does not have any personal stake or involvement in the decision and who was not directly involved in the initial determination of the action being contested. In cases where the appointed hearing official is not available, a backup official must be appointed. A panel member could serve in this role.

2. Notification to Clients and Applicants

- a. The local agency shall inform each individual in writing of the right to a fair hearing, of the method by which a hearing may be requested, and that any positions or arguments on behalf of the individual may be presented personally or by a representative such as a relative, friend, legal counsel or other spokesperson in the following circumstances:
 - i. If a claim is made against an individual after determining that program benefits have been obtained or disposed of improperly as a result of a participant violation
 - ii. At the time of participation denial (determined ineligible or placed on a Waiting List)
 - iii. At the time of disqualification from the Program

Note: This written notice will be achieved by providing the authorized person with a copy of the FAIR HEARING FOR WIC CLIENTS information flyer which may be printed by the MI-WIC system. (See Policy 1.04B Fair Hearing Procedure for Clients).

- b. Notification of the right to a fair hearing is not required at the expiration of a certification period.

3. Request for a Fair Hearing

- a. 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 his or her case to a higher authority, when one of the conditions in 2.a.i-iii are met.
- b. Local agency staff shall provide a copy of the Fair Hearing Flyer to clients who request a fair hearing or more information about fair hearings.
- c. The local agency shall not limit or interfere with the individual's freedom to request a hearing.

4. Time Limit for Request

- a. A request for a fair hearing must be made within **60 days** from the date of the notice of adverse action.
- b. If the request is made within 15 days from the date of the notice of adverse action, refer to #6 for continuation of benefits.

5. Denial or Dismissal of Request. A fair hearing request may be denied or dismissed for the following reasons:

- a. The request does not meet the criteria for a fair hearing. See #1.
- b. The request is received more than 60 days after the notification of the adverse action.
- c. The individual withdraws the request in writing.
- d. The individual does not appear at the scheduled hearing (without good cause).
- e. The individual was denied participation by a previous hearing and cannot provide evidence that circumstances have changed enough to justify a hearing.

6. Continuation of Benefits

- a. Clients who appeal the termination of benefits within 15 days of the date of the adverse notice 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, clients whose certification period has expired or clients who become categorically ineligible for benefits.
- b. Applicants who are denied benefits at initial certification, or clients 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.

- c. There will be no retroactive benefits. If a hearing decision is rendered which supports the client, then he/she will be provided benefits prospectively.

7. Retention of Fair Hearing Records

- a. The local agency is responsible for retention of all documents related to the fair hearing for a period of three years plus 150 days following the close of the fiscal year in which the hearing was concluded (See Policy 1.06, Records Retention and Destruction).

8. Federal Requirements

- a. The local agency shall conduct the hearing in accordance with the federal requirements in Exhibit 1.04A, rules of Local Agency Hearing Procedures.

B. GUIDANCE

1. The right to a fair hearing does not include client-perceived adverse program decisions other than those referenced by CFR 246.9(g), continuation of benefits.

References:

Federal Regulations - 246.9 Fair Hearing Procedures for Participants
Federal Regulations - 246.7(j) (6)
FNS Instructions 819-2, 10-22-82
Fair Hearing Flyer (MI-WIC print docs)

Cross References:

1.06 Records Retention and Destruction
2.18 Notification of Client Rights and Responsibilities

Exhibits:

1.04A Rules of Local Agency Hearing Procedures
1.04B Fair Hearing for Clients