

Michigan Department of Community Health
ADMINISTRATIVE REVIEW PROCEDURES
for the
Special Supplemental Food Program
for Women, Infants and Children (WIC)

Section 1. PURPOSE

This establishes a procedure to request an administrative review of certain adverse actions taken by the Department of Community Health (hereinafter referred to as the Department), specified in Section 2.

Section 2. LEGAL AUTHORITY

42 USC 1786, 7 CFR 246.18

Section 3. DEFINITION OF ADMINISTRATIVE REVIEW

An administrative review is a review by an impartial decision maker of the documents upon which the Department's adverse action is based and the vendor's written response to the adverse action. There will not be an administrative hearing or any adversarial hearing conducted during an administrative review. There will be no opportunity to present oral testimony or examine witnesses.

Section 4. RIGHT TO ADMINISTRATIVE REVIEW

A vendor has the right to appeal the following actions taken by the Department.

- A. Denial of the vendor's application for authorization based on the vendor selection criteria for business integrity or for a current Food Stamp Program disqualification or civil money penalty for hardship.
- B. Denial of the vendor's application based on the Department's established vendor selection criteria if the basis of the denial is a WIC vendor sanction or a Food Stamp Program withdrawal of authorization or disqualification.
- C. Denial of authorization based on the Department's vendor limiting criteria.
- D. Denial of the vendor's application for authorization because a vendor submitted its application outside the time frame during which applications are being accepted and processed as established by the Department.
- E. Termination of the vendor's contract because of a change in ownership or location or cessation of operations.

- F. Disqualification based on a trafficking conviction.
- G. Disqualification based on the imposition of a Food Stamp Program civil money penalty for hardship.
- H. Disqualification or a civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC state agency.

Section 5. ACTIONS NOT SUBJECT TO ADMINISTRATIVE REVIEW

The following adverse actions taken by the Department are not subject to an abbreviated administrative review.

- A. The validity or appropriateness of the Department’s vendor limiting or selection criteria.
- B. The validity or appropriateness of the Department’s participant access criteria and the Department’s participant access determination.
- C. The Department’s determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.
- D. Denial of authorization if the Department’s vendor authorization is subject to the procurement procedures applicable to the Department.
- E. The expiration of a vendor’s agreement.
- F. Disputes regarding food instrument payments and vendor claims.
- G. Disqualification of a vendor as a result of disqualification from the Food Stamp Program.

Section 6. PROCEDURE TO REQUEST AN ADMINISTRATIVE REVIEW

- A. A request for an administrative review of the adverse action shall be in writing and shall be received by the Department within 21 calendar days of the date of mailing of the notice of adverse action by the Department. Any request for an administrative review received by the Department after 21 calendar days of the date of mailing of the adverse action notice is untimely and an administrative review will not be conducted.

- B. A request for an administrative review and the vendor's written response to the adverse action shall be addressed to:

State Office of Administrative Hearings and Rules For the
Department of Community Health
P.O. Box 30763
Lansing, MI 48909

Section 7. NOTIFICATION OF ADVERSE ACTION, EFFECTIVE DATE AND RESPONSE

- A. The Department shall provide to the vendor written notification of the adverse action that includes: (1) the reason for the proposed action, (2) the effective date of the action and (3) the procedure to file for an administrative review and the opportunity to provide a written response to the adverse action.
- B. Notification of the adverse action shall be mailed at least 21 calendar days in advance of the effective date of the action.
- C. A vendor who has timely appealed an action by the Department to terminate his or her contract prior to the expiration of the contract may remain on the WIC Program until the effective date of the final decision or the contract expires, whichever occurs first. An appeal shall not require that the Department enter into a new contract with the vendor after the expiration of the current contract.

Section 8. SERVICE OF DOCUMENTS

Unless otherwise specified, service of a document upon any party shall be made by personal delivery or mailing by registered, certified or first class mail to the last known address of the party or the authorized representative of a party as indicated on the records of the Department. Proof of service shall be filed with the Department.

Section 9. COMPUTATION OF TIME

If any filing deadline falls on a Saturday, Sunday or state holiday, the filing deadline shall be extended to the next business day following the Saturday, Sunday or state holiday.

Section 10. STIPULATION; DISPOSITION OF CASES; METHODS

Except as otherwise provided by law, disposition may be made of the controversy by stipulation, agreed settlement, consent order, waiver, default or other method agreed upon by the parties.

Section 11. FINAL ORDER

The decision maker upon conclusion of his or her review will issue a final order stating the determination of the appeal.

The decision maker shall be someone other than the person who rendered the initial decision on the adverse action and whose determination is based solely on whether the Department has correctly applied Federal and State statutes, regulations, policies and procedures governing the program according to the information provided to the vendor concerning the cause(s) for the adverse action and the vendor's written response.

The final order shall be sent to the vendor by certified mail or served personally upon the vendor. The final order becomes effective on the date the vendor receives it.

Section 12. JUDICIAL REVIEW

Disqualification of a vendor from the WIC Program as a result of disqualification from the Food Stamp Program is not subject to judicial review.

The vendor may be able to pursue judicial review of the final order in accordance with MCL 600.631; MCR 7.101; 7.103 and MCR 7.104(A).

Section 13. ADDITIONAL INFORMATION – MDCH ADMINISTRATIVE HEARINGS POLICY AND PROCEDURES

For additional information or for questions on the Administrative Review Procedures, please contact the State Office of Administrative Hearings and Rules For the Department of Community Health, P.O. Box 30763, Lansing, Michigan 48909 or by telephone at 1-877-833-0870. A copy of the Michigan Department of Community Health's Administrative Hearings Policy and Procedures can be obtained at the above address and telephone number or contact them for their web site address.