

1.0 Administration

Effective Date: 7/7/09

1.08 Administrative Appeal of State Agency Decisions

PURPOSE: To detail steps by which a WIC local agency may appeal a decision made by MDCH WIC Division regarding the eligibility of such local agency for participation in the Special Supplemental Food Program for Women, Infants and Children or regarding an adverse decision which has affected the local agency's status.

A. POLICY:

1. Requesting the Administrative Appeal

- a. A request for an administrative appeal is defined as any clear expression that an opportunity to present the matter to a higher authority is desired. A request for an administrative appeal shall be submitted within sixty (60) calendar days from the date the notice of ineligibility for program participation or other adverse decision was mailed to the local agency. If a request for an administrative appeal is made within the period described in this paragraph, the local agency may remain authorized by MDCH to provide WIC services until notified of the decision following the hearing.
- b. The request for an administrative appeal shall be made in writing and submitted to:

**Director, WIC Division
Michigan Department of Community Health
Lewis Cass Building
320 South Walnut
Lansing, Michigan 48913**

The request shall describe the decision that is being appealed and the matters asserted.

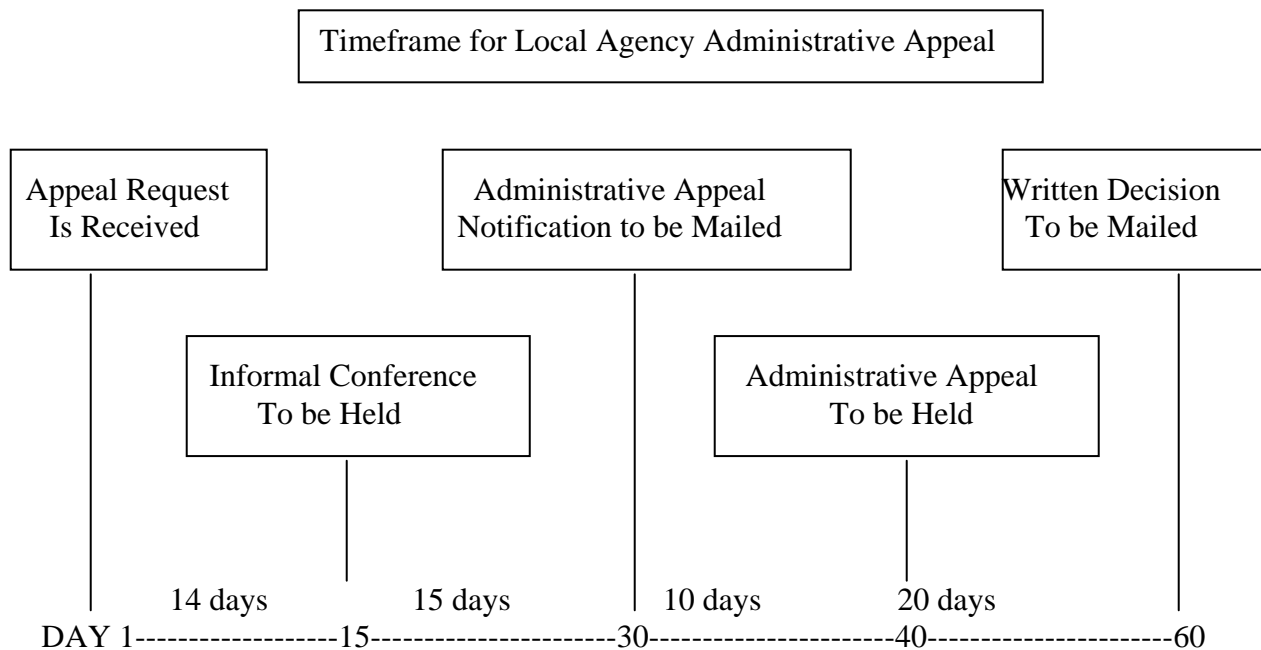
- c. Within fifteen (15) calendar days following receipt of a request for an administrative appeal, MDCH WIC Division shall provide the local agency with an opportunity for an informal conference at the offices of MDCH or at a mutually agreeable place.
 - d. If matters giving rise to the appeal are not resolved to the agreement of all parties at the informal conference, an administrative appeal shall be scheduled within forty (40) calendar days from the date of the request for an administrative appeal.
- ##### 2. Establishing the Administrative Appeal
- a. Upon determination that an administrative appeal is necessary, an administrative officer or panel shall be appointed by the Director of the MDCH WIC Division. Neither the administrative officer nor any member of a panel shall have participated in making the decision under appeal or in any previously held conferences regarding the appeal.

- b. Written notification of the administrative appeal shall be sent to the local agency at least ten (10) calendar days prior to the scheduled administrative hearing date. This notification shall be sent via certified mail and shall specify the time and place of the administrative appeal and the name(s) of the administrative officer or panel members.
 - c. The administrative appeal may be rescheduled once based upon the written request of the local agency, providing the written request is received by the Director prior to the date of the scheduled hearing.
 - d. The local agency or its representative shall be offered an opportunity to examine, prior to, and during the administrative hearing, the documents and records presented to support the decision under appeal.
3. The Administrative Appeal
- a. An opportunity shall be provided for the local agency and to MDCH WIC Division or its representative to present oral or documentary evidence and arguments supporting their position.
 - b. During the administrative appeal, the local agency shall be afforded the opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses.
 - c. The local agency may be represented by counsel or other person of its choice.
4. Decision of the Administrative Officer or Panel
- a. The decision of the administrative officer or panel shall be based on the oral and documentary evidence presented at the administrative appeal. This decision shall be made a part of the administrative appeal record.
 - b. After the administrative appeal, the administrative officer or panel shall, within twenty (20) calendar days from the date of the administrative appeal, notify the local agency or its representative of the decision in writing.
 - c. If the decision upholds the adverse action against the local agency, the local agency or its representative shall be informed in writing of the ability to pursue judicial review of the decision.

5. The Written Appeal Record

- a. A written record will be prepared with respect to the administrative appeal and will include:
 - The decision under appeal.
 - The administrative appeal notification.
 - Any documentation evidence admitted.
 - A summary or verbatim transcript of any oral testimony presented at the administrative appeal.
 - The decision of the administrative officer or panel and reasons for the decision.
 - A copy of the notification to the local agency or its representative of the decision of the administrative officer or panel.

- b. The written record of the administrative appeal shall be kept on file at MDCH for a period of three (3) years and 150 days and shall be made available for examination by the local agency or its representative at any reasonable time and place during the three (3) year and 150 day period.



B. DEFINITION:

Local Agency - Any agency contracted by MDCH to provide WIC services.

Reference:

Federal Regulations, 246.18