

## 7.0 Vendor Appeals

Effective Date: 08-01-2021

### 7.01 Appeals Policy Overview

**PURPOSE:** To outline the steps the Department must follow to notify Vendors or Vendor Applicants of an adverse action and their rights to appeal said action.

#### **DEFINITIONS:**

*Administrative hearing* means a formal proceeding held before an administrative law judge to resolve disputes between a Vendor or Vendor Applicant and the Department.

*Administrative review* means an appeal process that is solely a review of written documents and does not involve an administrative hearing in front of a judge.

*Program violation* means any intentional or unintentional action of a WIC Vendor's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the WIC Vendor Contract or Federal or State statutes, regulations, policies, or procedures governing the Program.

*Sanction* means a punitive or adverse action taken against a WIC Vendor for identified program violations. Sanctions may include, but are not limited to, termination, disqualification, and civil money penalties in lieu of disqualification.

#### **A. POLICY:**

1. The Department shall create and make available to WIC authorized Vendors and Vendor Applicants (Vendors) policy surrounding the appeals process and those sanctions and/or adverse actions that are and are not subject to an administrative review or hearing.
2. When the Department takes adverse action against a Vendor, the Department shall provide to the Vendor a written notice of the adverse action to be taken that includes:
  - a. The reason(s) for the adverse action;
  - b. The effective date of the adverse action; and
  - c. The filing deadline and procedures for requesting an administrative hearing or review, if applicable.
3. With exception of application denials and termination due to conviction of trafficking, which shall be made effective immediately, the Department will send notification of adverse actions at least 21 calendar days in advance of the effective date of the action.
4. Unless otherwise specified, the Department will serve a Notice of Adverse Action by certified first-class mail and/or email to the last known address of the party or the

authorized representative of a party as indicated by Department records. The Department will retain proof of service in its records. (See Policy 1.03 Communication with Vendors.)

5. For those cases where a Vendor appealed an adverse action and was allowed to continue on the Program, all provisions of the WIC Vendor Contract will continue to apply, including sanctions for noncompliance, during the time period the contract is in effect. (See Exhibit 2.05A WIC Vendor Contract, 2.05B WIC Pharmacy Vendor Contract, and 6.01A WIC Vendor Sanction Schedule.)

References:

[7 CFR Part §246.18 \(a\)](#)

Cross-references:

[1.03 Communication with Vendors](#)

Exhibits:

[2.05A WIC Vendor Contract](#)

[2.05B WIC Pharmacy Vendor Contract](#)

[6.01A WIC Vendor Sanction Schedule](#)