

7.0 Vendor Appeals

Effective Date: 08-01-2021

7.04 Administrative Hearings

PURPOSE: To describe the appeals process for administrative hearings. Refer to Michigan WIC Vendor Policy 7.02 for adverse actions subject to administrative hearing.

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.

A. POLICY:

1. Administrative hearings shall be held before an administrative law judge within the Michigan Office of Administrative Hearings and Rules (MOAHR). The individual presiding during the appeal shall not have participated in making the decision that is under appeal.
2. The Notice of Adverse Action received by the WIC-authorized Vendor or Vendor Applicant (Vendor) will alert the Vendor of their ability and filing deadline to appeal the decision via administrative hearing. The notice will include the Request for Administrative Hearing form. (See Exhibit 9.04A Administrative Hearing Request Form (MDHHS-5948).)
3. To request an administrative hearing, the Vendor must complete and submit the Request for Administrative Hearing form by the filing deadline calendar date included on the notice of adverse action by the Department. The date of the hearing request will be the date it is received by MOAHR. (See Exhibit 9.04A Administrative Hearing Request Form (MDHHS-5948).)
4. The Request for Administrative Hearing form must be signed by the Vendor's owner, an authorized representative, or attorney.
5. Following receipt of a valid hearing request, MOAHR will initiate a hearing.
 - a. The presiding administrative law judge may schedule a telephone prehearing conference to address any preliminary matters. A Notice of Telephone Prehearing conference will be sent to the parties.
 - b. The administrative law judge will conduct the administrative proceedings in accordance with the Department of Licensing and Regulatory Affairs' Administrative Hearing Rules, Michigan Administrative Code, Rule 792.10101 et seq.
 - c. The administrative law judge will issue a Notice of Hearing via certified mail that will include the date, time, and location of the hearing.

- d. The Notice of Hearing must be mailed at least 10 calendar days before the scheduled administrative hearing date.
6. The Vendor has, but is not limited to, the following rights at an administrative hearing:
 - a. The opportunity to examine before the hearing the evidence upon which the Department's adverse action is based.
 - b. During the hearing, the opportunity to explain the reasons for the appeal, offer evidence, call witnesses, and cross-examine adverse witnesses. When necessary, to protect the identity of WIC Program investigators, examination may be conducted behind a protective screen or other device (also referred to as an "in camera" examination).
 - c. The opportunity to be represented by legal counsel of the Vendor's choice and expense. Vendors may also represent themselves.
 - d. At least one opportunity to adjourn the administrative hearing date upon specific request. Adjournment requests must be made to MOAHR in writing by a Vendor's authorized representative. The presiding administrative law judge will either grant or deny the adjournment request.
 - e. A decision by an impartial decision-maker, whose determination is based solely on whether the Department has correctly applied federal and state statutes, regulations, policies, and procedures governing the WIC Program, according to the evidence admitted at the hearing.
 - f. Written notification of the hearing decision, including the basis for the decision, within 90 days from the date of receipt of a Vendor's request for an administrative hearing. Failure to receive a decision within 90 days will not overturn the Department's adverse action(s).
 - g. The opportunity to withdraw the appeal or resolve the dispute through stipulation, settlement, consent order, waiver, default, or other method.
 7. Upon conclusion of the hearing, the presiding administrative law judge will issue a Final Decision to the Vendor by certified mail.
 - a. If the adverse action has not already taken effect, an upheld adverse action becomes effective on the proof of service date of the Final Decision.
 - b. The parties may request a rehearing and/or reconsideration of the Final Decision with MOAHR; however, the adverse action remains in effect while a motion for rehearing or reconsideration is pending.

8. The Vendor may be able to pursue judicial review of the Final Decision in accordance with 7 CFR 246.18, MCL 600.631, MCR 7.101, 7.103 and MCR 7.104(A).

References:

[7 CFR Part §246.18](#)
[MCL 600.631](#)
[MCR 7.101](#)
[MCR 7.103](#)
[MCR 7.104\(A\)](#)

Cross-references:

[7.02 Adverse Actions Subject to Appeal](#)

Exhibits:

[7.04A Administrative Hearing Request Form](#)