

MI-WIC POLICY

Administration

1.0 Administration

Effective Date: 4/15/11

1.03 Confidentiality

PURPOSE: To ensure compliance with Federal Regulations and to assure the confidentiality of applicant and client information.

A. POLICY:

1. Confidential applicant and client information is any information about an applicant or client whether it is obtained from the applicant or client, another source, or generated as a result of WIC application, certification, or participation that individually identifies an applicant or client and/or family member(s). [CFR 246.26 (d)] WIC staff shall not disclose confidential information to anyone other than WIC staff and others listed in this policy who have a need to know the information for the benefit of the WIC client.
2. WIC agencies shall assure privacy when performing the following:
 - a. Income determination
 - b. Anthropometric and laboratory procedures
 - c. Obtaining medical history
 - d. Client counseling.
3. A WIC client or the parent or guardian of a minor client shall have access to, and may receive, a copy of the specified individual's WIC record upon written request.
4. WIC records/charts/files and/or related data shall be stored in a secured manner. All records and reports that contain confidential client information shall be stored/kept in a locked area. Electronic records shall be kept under direct supervision at all times.
5. The use and disclosure of confidential applicant and client information shall be restricted to persons directly connected with the administration or enforcement of the WIC Program at the local, state or federal level who have a need to know the information for WIC Program purposes. These persons may include, but are not limited to:
 - a. Personnel from its local agency and other WIC Federal or State agencies.
 - b. Persons under contract with the State agency to perform research or evaluations regarding the WIC Program.
 - c. Persons investigating or prosecuting WIC Program violations under Federal, State or local law.
 - d. Representatives of the Office of the Inspector General (OIG) and the Comptroller General shall have access to all WIC records, including confidential client information.
 - e. Individuals or agencies who submit a valid subpoena, provided a determination by legal counsel has been made in accordance with WIC regulations Section 246.26 (d) and FNS Instruction 800-1 that the person making the request has the legal authority to waive confidentiality requirements.

- f. Individuals or agencies that submit a signed release by the client or the client's legal guardian, authorized person, or persons who are by law eligible to sign a request. Requests for release of information shall be retained according to local agency policy.

NOTE: Documentation of record request by subpoena, signed release, etc. shall be maintained in the client's file.

6. Memorandum of Understanding (MOU)

- a. Information may be released if an interagency agreement or Memorandum of Understanding (MOU) has been executed between the Michigan Department of Community Health and a public agency or program that administers a health or welfare program serving persons eligible for the WIC Program.
- b. All WIC applicants/clients/authorized persons shall be informed of these agreements and give their written consent on the Michigan WIC Client Agreement as a condition of participation in the WIC program. Refer to Policy 2.18A Michigan WIC Client Agreement.
- c. The Michigan Department of Community Health (MDCH) MOU's currently in effect are posted on the MDCH/WIC website at: www.michigan.gov/wic, Information for WIC Providers, MI-WIC Policy Manual, Chapter 1: Administration, 1.03 Confidentiality. Local agencies shall refer to the specific information that may be released to the corresponding agency within each MOU.

7. Reporting of suspected child abuse does not constitute a violation of confidentiality provisions. Information may be released to an agency in cases of reporting, or investigation of, suspected child abuse (under the State of Michigan Child Protection Law, Act No. 238, Public Acts of 1975, as amended, Sections 722.621-722.636, Michigan Compiled Laws). Refer to Policy 6.06 Reporting of Suspected Child Abuse.

8. Obtaining a Release of Information

- a. Requests for applicants or clients to sign voluntary release forms must occur after the application and certification process is completed.
- b. The local agency must permit applicants and participants to refuse to sign a release form and must notify the applicants and clients that signing the form is not a condition of eligibility and refusing to sign the form will not affect the applicant's or client's application or participation in the WIC Program.
- c. Release of information forms shall specify which agency is to have the information and what information is to be released.

9. WIC staff who have access to the WIC client's record by virtue of their involvement in the day-to-day operation of the WIC program, must be advised of the requirement to keep confidential the information in the client's record. MI-WIC users will be required to acknowledge agreement to these requirements. (See Policies 9.02 Employee Compliance, 10.03 System Security/MI-WIC Access)
10. Research requests and requests for data in aggregate or summary form may be granted when the released information excludes any items that would identify the WIC program's client or applicant, and the request for research or data has been reviewed by the MDCH Institutional Review Board.
11. Unanswered questions as to who may have access to client's records shall be referred to the local agency's legal counsel.

B. GUIDANCE

1. A signed release may be scanned into MI-WIC.
2. Subpoenas and reports of suspected child abuse may be retained in a centralized file.

Reference:

Federal Regulations 246.26
State of Michigan Child Protection Law, Act No. 238, as amended
Sections 722.621-722.636 Michigan Compiled Laws
FNS Instruction 800-1

Cross Reference:

6.06 Reporting Suspected Child Abuse
6.06A Summary of Act 238 of 1975
2.18A Michigan WIC Client Agreement
9.02 Employee Compliance
10.03 System Security/MI-WIC Access