

# MI-WIC POLICY

## Program Compliance

### 9.0 Program Compliance

Effective Date: 12/07/15

#### 9.01 Client Compliance

**Background:** The overall goal of this policy is to assure WIC program integrity, by protecting clients who follow program rules and educating and promptly counseling those clients who do not. WIC Coordinators must assure that their program staff is educating and counseling clients about WIC Program rules set forth in the WIC Client Agreement. The overall objective is to educate, counsel and prevent WIC Program fraud and abuse, while serving those in need of WIC services. The State Agency will work to assist, support and coordinate with all stakeholders in this effort.

**PURPOSE:** This policy defines client fraud and abuse and establishes procedures which the Local Agency, with the assistance of the State Agency, will follow when identifying, investigating, and resolving allegations of client fraud and abuse within the WIC Program.

The State Agency determines uniform procedures and sanctions to be applied to cases of program abuse by clients. A sanction, which is based on the severity of the abuse, may range from education and/or a warning letter to disqualification from the program for a maximum of one year and/or repayment of benefits. If the State Agency and/or Local Agency determine that program benefits have been obtained or disposed of improperly as a result of client violations of program integrity, the State Agency and/or Local Agency will establish a claim against the client for the full value of such benefits.

#### DEFINITIONS:

Refer to Exhibit 9.01A for definitions.

#### A. POLICY

1. The Local Agency is responsible for educating WIC clients about the expectations and requirements of the WIC Program. (See MI-WIC Policy 2.18, Notification of Client Rights and Responsibilities.)
2. Local Agency staff are responsible for assigning food packages which meet the needs of WIC clients. If the Local Agency CPA determines that the maximum food package is not appropriate for the client, a custom food package shall be provided. (See MI-WIC Policy 7.01, Food Package Determination).
3. "Any form of participant fraud and abuse, such as using WIC benefits in any way other than the method and purpose for which they were intended, violates the Federal WIC Regulations and constitutes a participant violation under 7 CFR 246.2. Making a verbal offer of sale to another individual or posting WIC foods/formula benefits and/or EBT cards for sale in print or online, or allowing someone else to do so, is evidence that the participant committed a participant violation. Intentionally

making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain benefits is evidence that the participant committed a participant violation. FNS expects all State agencies to sanction and issue claims against participants for all participant violations” (See reference USDA Policy Memorandum #2012-1). “Buying, selling or otherwise misusing WIC benefits is a violation” (See reference USDA Policy Memorandum #2013-4).

4. When a complaint of potential client fraud is received by the Local Agency, it must be logged into the MI-WIC System by the person who received the complaint and investigated by the Local Agency WIC Coordinator or designee(s). (See Section B. Procedures, 1. Processing Complaints)
5. When complaints of client fraud and abuse are found to be substantiated, a Compliance Letter must be sent or given to the client to notify them of their sanction.
6. Fair Hearing notices shall be issued with the Compliance Letter as well as a copy of the most recently signed WIC client agreement for the family involved in the case (See MI-WIC Policy 1.04, Fair Hearing Procedures for Clients).

NOTE: Refer to Policy 9.02, Employee Compliance, for complaints of fraud and abuse involving a WIC staff person.

7. Customer service complaints regarding Local Agency WIC service provision shall not be logged as a fraud and abuse complaint in the MI-WIC system. The Local Agency may determine how to document and resolve customer service complaints based on Local Agency procedures.
8. All vendor complaints will be processed and coordinated by the Vendor Management and Operations Section (VMO), of the MDHHS/WIC Division. The fraud hotline number is 1-800-CALL-WIC or Email: [wicfraudinvestigations@michigan.gov](mailto:wicfraudinvestigations@michigan.gov). Local Agency staff shall provide the hotline number or email address to the complainant as needed.

## **B. PROCEDURES**

### **1. Processing Complaints:**

- a. The Local Agency (preferably same day or next business day) will enter a complaint in MI-WIC upon detection, verbal or written report of client fraud and abuse. (See Exhibit 9.01B Violation Types/Sanctions). This is not an exhaustive list of violation types/sanctions. Other potential types of fraud and abuse must be reported to MDHHS WIC staff for further determination of potential sanctioning.
- b. The Local Agency will email the complaint number and family ID to the State Agency at [wicfraudinvestigations@michigan.gov](mailto:wicfraudinvestigations@michigan.gov)

- c. A complaint will be entered based upon, but not limited to, any of the following:
- Anonymous tips (i.e. phone calls, letters, or emails) of alleged client fraud & abuse.
  - Report from WIC vendors, WIC employees, other clients or the general public alleging client fraud and abuse.
  - Actual or threatened verbal or physical abuse to WIC staff members, clients, grocery store staff or farmers.
  - Potential dual participation evidenced by the same client with overlapping benefits and dual redemption verified in EPPIC (See MI-WIC Policy 3.03, Dual Participation).
  - Public information reports, i.e. newspaper/social media sites such as Craigslist, eBay, Facebook, mommies2mommies sites, yard sale sites in your areas/counties, etc., and other internet information suggesting potential client violation.

2. Conducting the Review and Investigations:

- a. The Local Agency WIC Coordinator or designee(s) will identify and document complaints requiring an investigation by accessing messages sent by State Agency staff and by reviewing the Client Compliance Log Report at least bi-weekly (every other week). The Local Agency WIC Coordinator or designee(s) will follow up on complaints logged by the State Agency and their Local Agency staff. The Local Agency WIC Coordinator or designee(s) must complete the review and investigation within 30 days of any reported incident.
- b. The following steps will be taken to conduct an investigation when applicable:
- i. Review complaint documentation in the MI-WIC Compliance Investigations screen.
  - ii. Identify and document in MI-WIC the client Violation Type(s) alleged in the complaint.
  - iii. Collect, review, and document in Investigation Notes/Compliance Notes section of MI-WIC system all information related to the allegation. This information may include:
    - Screenshots of items being sold on social media sites
    - Certification data (i.e. Income or other eligibility documentation)
    - System reports
    - Records of meetings or conversations from complainant, client or witnesses
    - Benefit data from MI-WIC and/or EPPIC
    - Any other documentation or information regarding this complaint
    - Any pertinent client complaint history

- iv. Request a meeting/phone conference with the client to discuss the allegation. In a unique circumstance, upon request, the Michigan WIC State Agency may provide support in contacting the client.
    - Ask the authorized person to clarify the items in question. If the “preponderance of evidence” suggests this is WIC purchased formula, it is the responsibility of the authorized person to prove it is not and clarify the incident.
    - Take detailed notes during the interview.
    - Discuss the allegation and the documentation/information collected with the client. Review the overall intent of the WIC program.
    - Review the signed WIC Client Agreement and re-educate the client regarding WIC Program violations and potential penalties.
    - Explain the investigation process including the right to a Fair Hearing, if applicable (See MI-WIC Policy 1.04, Fair Hearing Procedures for Clients).
  - c. The Local Agency WIC Coordinator or designee(s) shall document the findings in the Compliance Investigations screen in MI-WIC and determine if the complaint is substantiated.
  - d. If the Local Agency WIC Coordinator or designee(s) is unable to contact the authorized person, (i.e. the authorized person will not answer the phone, hangs up on the Coordinator or designee, changes their number without informing the Local Agency, etc.), a warning letter or sanction shall be imposed based on the authorized person’s failure to communicate with the Local Agency Coordinator or designee. At that point, the client may be terminated, based on evidence collected by the Local Agency WIC Coordinator or designee(s) or the State Agency, as their failure to contact the Local Agency may be taken as an admission of guilt.
3. Substantiated Allegations and Client Sanctions
- a. The Local Agency WIC Coordinator or designee(s) will determine the sanction to be applied based on the type(s) of violation(s) substantiated. If more than one violation is substantiated, the more severe sanction shall be applied. (See Exhibit 9.01 B, Violation Types/Sanctions.)

NOTE: For the welfare of the infant/child, the WIC clinic may request the infant/child be brought in for a health and nutrition assessment in instances when four or more cans of formula intended for the infant/child are posted for sale on social media sites (when the formula is that which was prescribed to the authorized person/proxy). The client’s response to the request shall be documented in MI-WIC.

- b. The Local Agency WIC Coordinator or designee(s) will determine if the client violation resulted in program benefits being obtained or disposed of improperly. If so, these actions must be taken:
  - i. Select the appropriate client sanction action in the MI-WIC sanction screen.
  - ii. Contact the State Compliance Lead to confirm if restitution is required and to coordinate follow-up.
  - iii. If restitution is required, include “Repayment” as a Sanction Action and generate a sanction/repayment letter notification for the client. Indicate in the letter that the client must enter and sign a Settlement Agreement as part of the repayment plan. (See Exhibit 9.01C, WIC Settlement Agreement Form.)

#### 4. Generate the Compliance Letter

- a. To ensure the Claim Amount appears in the Compliance Letter, enter it in the Claim Amount field on the Compliance Investigations screen in MI-WIC.
- b. The system will auto assign the Sanction Effective Date fifteen days into the future as required pursuant to federal regulations.
- c. The Compliance Letter may be printed when saving the Sanction screen data or by accessing the Print Docs screen.
- d. The Local Agency WIC Coordinator or designee(s) will issue a sanction letter to the client.

NOTE: The Compliance Letter content will differ depending on the sanction(s) selected. When necessary, it will include client notification of the right to a fair hearing. A Fair Hearing Notice must be printed and included in the compliance letter mailing when a sanction of Repayment and/or Disqualification is applied. (See MI-WIC Policy 1.04, Fair Hearing Procedures for Clients.)

#### 5. Notify the client of the sanction

- a. Client notification must be initiated as soon as possible (preferably same day or next business day) of sanction assignment. Options include:
  - Deliver the compliance letter via return receipt.
  - For clients with “Preference No Mailing”, or if the letter is returned as undeliverable, attempt to reach the client by phone or provide the letter at the client’s next appointment.
  - Obtain the authorized person’s signature on the WIC Program Settlement Form if applicable. (If restitution is owed to the State WIC Program.) (See Exhibit 9.01C, WIC Settlement Agreement Form )
  - Text messages and emails to the client are acceptable means of notification.

- b. Document all attempts/contacts regarding client notification in the Compliance Investigations screen. Add an alert to the client record to meet with The Local Agency WIC Coordinator or designee(s) regarding the Client Agreement section on prohibition of selling WIC foods/formula.
6. The Local Agency WIC Coordinator or designee(s) will inform the authorized person to return the WIC items in question to the WIC clinic when applicable. If items are not received by the due date set by the Local Agency WIC Coordinator or designee(s), the authorized person may be disqualified from the program and be required to pay full restitution for those items.

NOTE: The Local Agency shall follow local WIC formula return policy when handling returned formula.

7. Implement the sanction

- a. If benefits are to be suspended/terminated, void any benefits issued on or after the Sanction Effective Date.
  - i. If the sanction includes disqualification, terminate the client or authorized person who committed the fraudulent act with a termination date equal to the Sanction Effective Date and select Termination Reason “Abuse of Program.” Children of clients/authorized persons/guardians committing fraud and being sanctioned can remain on the program if the sanctioned client/authorized person/guardian designates a proxy, who is not associated with the case, to bring the child in for appointments.
  - ii. The client may reapply for the program at the end of a disqualification period. However, the client must meet eligibility criteria before certification. If income is questionable, request the previous year’s W-2s.
  - iii. Continue the sanction period until such time that all restitution payments are made in full. (Once restitution is paid in full, the State Agency will notify the Local Agency Coordinator.)
- b. If the client whose benefits are being suspended or terminated requests a fair hearing within 15 days of the date of the notice, **do not** interrupt benefits (See MI-WIC Policy 1.04, Fair Hearing Procedures for Clients).
- c. More severe violations of program integrity, such as selling of WIC food instruments, EBT cards, benefits or foods purchased using WIC benefits verbally, in print or online, may result in disqualification after review by State Agency. The State Agency may refer clients found guilty of abusing the WIC program to federal, state or local authorities for prosecution under applicable statutes where appropriate.

### 8. Mandatory Disqualification

A Sanction Action of a One Year Disqualification is required if:

- i. The claim amount is \$100.00 or more.
  - ii. The violation is for dual participation.
  - iii. This is a second or subsequent claim of any amount.
- a. Local Agencies may allow, in consultation with the State Compliance Lead, clients to avoid mandatory disqualification or reapply before the end of a mandatory disqualification period if, within 30 days of receiving the Compliance Letter:
- Full restitution is made.
  - The clinic is contacted by the client to create a repayment plan and enters into a written settlement agreement.
  - The clinic approves designation of a proxy for a client who is an infant, child, or under the age of 18, or other instances on a case by case basis.
  - Determine if benefits must be suspended/terminated for the authorized person. Do not suspend/terminate the pregnant woman, infant/children's benefits except in cases of dual participation and/or if the client is income ineligible. (See MI-WIC Policy 3.03, Dual Participation and MI-WIC Policy 2.04, Income Determination)

### 9. Unsubstantiated Allegations and Warning Letter

The Local Agency WIC Coordinator or designee(s) **will not** sanction a client/authorized person/proxy if the allegations of fraud are unsubstantiated. The Local Agency WIC Coordinator or designee(s) will re-educate and counsel the client on WIC policy and issue a warning letter. (See Exhibit 9.01 B, Violation Types/Sanctions.)

- a. On the MI-WIC Sanction screen under Case Number select "Case Number".
- b. Under Sanction Action select "Warning Letter".
- c. Generate the Warning Letter.

NOTE: Refer to the MI-WIC help screen for instructions on customizing and printing the Warning Letter.

- i. In the "Letter Insert" field on the Sanction Grid enter the type of client violation as you want it to appear in the Warning Letter.
- ii. The Warning Letter may be printed when saving the Sanction screen data or by accessing the Print Docs screen.

- d. Notify the client of investigation findings
  - i. Send the warning letter as soon as possible (preferably same day or next business day). Options include:
    - Deliver the compliance letter via return receipt.
    - For clients with “Preference No Mailing” or if the letter is returned as undeliverable, attempt to reach the client by phone or provide the letter at the client’s next appointment.
    - Text messages and emails to the client are acceptable means of notification.
  - ii. Document all attempts/contacts regarding client notification in the Compliance Investigations Screen.

#### 10. Disqualification in Error

If the Local Agency WIC Coordinator or designee(s) determines that a client has been disqualified in error; the client(s) will be reinstated immediately. Retroactive benefits may not be issued to a client disqualified in error.

#### 11. Recordkeeping and Retention

All non-system complaint and investigation documents must be retained for three years and one hundred and fifty days. (See MI-WIC Policy 1.06, Record Retention and Destruction.)

### C. GUIDANCE

1. Michigan State Agency Staff and the State Compliance Lead are available for guidance in compliance investigations and assignment of sanctions. For cases involving restitution, the State Agency will be responsible for monitoring repayment and collaborating with local agencies as needed. The State Agency is available to assist in determining restitution payment amounts, if needed.
2. The State Agency will assist with investigating social media site postings of WIC items that are posted for sale. The State Agency will add complaints in MI-WIC upon detection of social media postings, or verbal or written reports of client fraud and abuse.
3. The State Agency will email the Local Agency WIC Coordinator with any complaint information and screenshots of suspected online posts. If four or more cans of WIC formula intended for the infant/child are posted for sale on social media sites (when the formula is that which was prescribed to the authorized person/proxy), and the infant/child is between the ages of 1 month old up to 6 months old, the State Agency will report this to the Local Agency WIC



Coordinator. The Local Agency WIC Coordinator or designee(s) will attempt to contact the client **as soon as possible** (preferably the same day or next business day) about the allegation.

4. The State Agency will contact the social media sites to have the suspected WIC fraud postings removed.
5. Copies of emails to clients sent from the State Agency regarding suspected postings will be forwarded to the Local Agency WIC Coordinator. The State Agency will update MI-WIC accordingly.
6. Local Agencies may be contacted by representatives of the State Agency or State of Michigan Office of the Inspector General (OIG) and the State Agency or State of Michigan Comptroller General who may have access to all WIC records, including confidential client information. (See MI-WIC Policy 1.03, Confidentiality)
7. The Local Agency Coordinator may determine who will be responsible for obtaining details of fraud and abuse allegations (i.e., who shall investigate and enter MI-WIC data after a complaint has been entered).
8. In cases where OIG is conducting an investigation, compliance/sanction notes do not need to be entered until a final outcome of the investigation has been made by the OIG in the case.
9. The State Agency and USDA reserves the right to sanction and/or disqualify a client who violates this policy and any other actions not listed herein if the client violates program rules and regulations.

#### References:

Federal Regulations 246.2, 246.7 (c), 246.7 (l), 246.9 (c), 246.9 (k), 246.10(b)(2)(ii)(D), 246.12 (u)(1), 246.12 (u)(5), 246.23 (c)(1)  
42 US Code Section  
MCL 400.1 et seq 1939 PA 280  
USDA Policy Memorandum #2012-1  
USDA Policy Memorandum #2013-4

#### Cross References:

1.03 Confidentiality  
1.04 Fair Hearing Procedure for Clients  
1.06 Records Retention and Destruction  
2.04 Income Determination  
2.18 Notification of Client Rights and Responsibilities  
2.20 Notice of Ineligibility, Mid-Certification Termination and Expiration of Certification  
3.03 Dual Participation  
7.01 Food Package Determination  
9.02 Employee Compliance

#### Exhibits:

9.01A Definitions  
9.01B Violation Types/Sanctions  
9.01C WIC Settlement Agreement Form