

7.0 Vendor Appeals

Effective Date: 09-01-2022

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.

Corrective Action Plan (CAP) means a written agreement between a Vendor and the Department that may be entered into in lieu of termination and disqualification. A CAP includes conditions for a Vendor to establish a pattern of compliance and must be successfully completed for the Vendor to retain its WIC authorization.

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 mailing or email 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 Vendor 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.)
6. For those cases where a Vendor agreed to a Corrective Action Plan (CAP) in lieu of termination and disqualification, and failed to meet the conditions of the CAP, the Vendor retains the right to appeal the initial adverse action per Vendor Policy 7.02 Adverse Actions Subject to Appeal. The Department shall provide to the Vendor a written notice of failure to meet the conditions of the CAP, including a filing deadline and procedures for requesting an administrative hearing or review, if applicable.

References:

[7 CFR Part §246.18](#)

Cross-references:

[1.03 Communication with Vendors](#)

[7.02 Adverse Actions Subject to Appeal](#)

Exhibits:

[2.05A WIC Vendor Contract](#)

[2.05B WIC Pharmacy Vendor Contract](#)

[6.01A WIC Vendor Sanction Schedule](#)

[6.03A Corrective Action Plan Agreement](#)