



Chapter 2: Administration

Approval Date: Apr 2020

Supersedes: Oct 2019

Overview

The Idaho WIC Program operates according to WIC program specific federal regulations as well as the Department of Health and Welfare operation guidelines.

Purpose

The sections in this chapter describe WIC program staff responsibilities to ensure the integrity of the WIC program by providing benefits only to eligible applicants in a non-discriminatory manner and safeguarding the confidentiality of individuals participating in the program.

Scope

The policy applies to all State and local agency staff operating within the Idaho WIC Program.

In This Chapter

- Section A Customer Service
- Section B Civil Rights and Nondiscrimination
- Section C Complaints and Incidents
- Section D Program Violation
- Section E Fair Hearings
- Section F Disaster Recovery
- Section G Memorandum of Understanding (MOU)

SECTION A: CUSTOMER SERVICE

OVERVIEW

The goal of the Idaho WIC Program is to provide WIC services in a positive and helpful manner.

IN THIS SECTION

Clinic Environment
Telephone
Greeting Applicants and Participants
Evaluating Service Quality

Clinic Environment

PRIVATE AND CONFIDENTIAL

Ensure that the clinic atmosphere/environment (including waiting room, bathrooms, counseling offices and reception area) conveys a warm, respectful, and professional atmosphere. The clinic environment should ensure:

- Private areas are available for participant counseling.
- Participants' charts are not identifiable by other participants or persons working outside the program.
- Clinic staff call participants to the front counter when they need to talk with them in the waiting area. Talk softly so other participants do not hear the conversation. Questions should not be called out across the waiting area.

PHYSICAL ARRANGEMENT

The clinic physical arrangement should strive for:

- Comfortable seating for all persons
- Comfortable temperature and appropriate lighting
- Cheerful posters and decorations on the wall
- Furniture arrangement that promotes a cooperative "working together" relationship rather than a dominate/subordinate relationship. When possible:
 - Have participant sit to one side of the desk.
 - Allow participants to sit down while they are signing papers and providing information to staff.
- Signs with positive messages rather than signs which are negative in intent, e.g., controlling signs about being late
- Being organized and non-cluttered

CHILD FRIENDLY

The clinic environment should strive to be child friendly by providing:

- Colorful, clean waiting rooms
- Waiting areas that are inviting places for children

PROMPT SERVICE

Serve participants in a timely manner. They should not be kept waiting more than a few minutes. Tell a participant approximately how long the wait will be. If the wait is longer than expected, apologize to the participant and inform him/her how much longer the wait might be. Give participants complete and accurate information. Staff should take time to answer questions completely whether in person or on the phone.

REFERENCE

State policy

Telephone

AVAILABILITY

- Be accessible by telephone.
- Have enough phone lines so callers rarely get a busy signal.
- Keep the use of an answering machine to a minimum.

TECHNIQUE

Good telephone techniques include:

- Asking if you may put the caller on hold and then wait for an answer.
- Telling the caller how long he or she will be on hold. Return to the phone call within that time. The wait should not be more than one minute.
- Taking a number and calling the person back if the wait is expected to be more than one minute.
- Thanking the person for calling. Do not reprimand a person who calls to cancel, even if it's at the last minute. Let participants know that WIC appreciates the call.

ANSWERING MACHINE

Use the answering machine when the clinic is closed or not in operation due to a staff meeting. Remember to turn the answering machine off as soon as the clinic reopens. The message on the machine should tell the caller:

- Office hours
- When to call back
- To leave a message, especially if calling to cancel an appointment
- If the caller leaves a message, ask the caller to:
 - Give his or her name
 - Indicate the reason for the call
 - Provide a contact phone number

Check messages regularly.

Return calls in a timely manner.

Update the machine message regularly.

Please do not use the answering machine just because the office is busy.

REFERENCE

State policy

Greeting Applicants and Participants

POLICY

Front office and reception staff should greet and acknowledge participants in a friendly manner. The first staff person to communicate with the participant sets the stage for positive relations. This can be the person who makes the appointment over the phone or the receptionist who interacts with the participant for the first time they come in. All future interactions will be affected by this first contact. It's important that the first contact be positive. This is the first step in developing a caring, trusting relationship. If this is not established in the beginning, all future communication and teaching may be hindered.

TREAT PARTICIPANTS IN A POSITIVE AND A RESPECTFUL MANNER

Participants should not be rushed through the system. There is a good balance between quick service and taking the time to meet the needs of participants. Greet participants when they arrive and acknowledge their children.

- Listen as well as tell. Listening shows respect.
- Tell participants how long they will be there.
- Tell participants if you are running late and give them the option to reschedule if it involves a significant wait. Apologize sincerely for any delays.
- Offer timely service and respect participants' time.
- Offer flexible appointments.
- Be understanding and don't judge. It's not possible to know what pressures the person may be dealing with, e.g., unemployment, inability to pay bills, divorce, domestic violence, taking care of a child with many medical problems, drug addiction, eviction notices, etc.
- Help participants carry belongings back to counseling rooms.
- Walk beside them and chat with participants while taking them back to get services instead of walking ahead of them.
- Don't interrupt.
- Be sure that behavior and dress are professional.
- Focus on people, not paper or computer.
- Know when to be flexible.

REFERENCE

State policy

Evaluating Service Quality

POLICY

Evaluate services yearly to ensure that clinics offer quality services. Develop a customer service questionnaire or use some other evaluation tool. Examples of questions follow.

Example:

For the most part, are you served within 15 minutes when you arrive on time? Yes No Comments
Have you been able to reach clinic staff by phone easily? Yes No Comments?
I have been treated fairly and kindly by the WIC staff. Yes No Comments Please explain
The WIC clinic uses answering machines: Too much Not enough Just the right amount

DEVELOP CUSTOMER SERVICE GOALS EACH YEAR

Examples:

The average waiting time for an appointment will be reduced to five minutes.
The percentage of clients who say on the questionnaire they have trouble getting through to the clinic by phone will be reduced to 10%.

SELF ASSESSMENT

Have staff check their attitudes by asking themselves which of the following statements reflect their beliefs.

Positive

I do all I can to help.

If I don't know the information needed, I will find out.

I serve participants as quickly as I can because they are important.

I like participants and co-workers.

I know participants and co-workers are trying their best.

I can give information, but participants and co-workers still have choices. I do not hold it against anyone if they don't take my advice.

Participants and co-workers know what is best for them.

Negative

I'm doing participants a favor by waiting on them.

I believe participants should just be thankful they are getting this free.

Participants should follow all our rules without questions.

WIC participants don't have anything to do anyway, so they can spend time at WIC.

I know more than participants and co-workers so I need to tell them what to do.

If we don't have strict rules, WIC participants will take advantage of us.

Participants don't even try.

Participants will never change.

WIC participants just take advantage of the system.

WIC participants are lazy, uneducated, cheaters.

REFERENCE

State policy

SECTION B: CIVIL RIGHTS

OVERVIEW

The Idaho WIC Program is committed to equal opportunity in the delivery of program services. In accordance with Federal law, U.S. Department of Agriculture, and the Idaho Department of Health and Welfare, the Idaho WIC Program prohibits discrimination on the basis of race, color, national origin, sex, age, or disability.

IN THIS SECTION

Civil Rights and Nondiscrimination
Reasonable Accommodation
Public Notification
Racial/Ethnic Data Collection
Staff Training
Compliance Reviews

Civil Rights and Nondiscrimination

OVERVIEW

The Idaho WIC Program is committed to equal opportunity in the delivery of program services. In accordance with Federal law, U.S. Department of Agriculture, and the Idaho Department of Health and Welfare, the Idaho WIC Program prohibits discrimination on the basis of race, color, national origin, sex, age, or disability.

POLICY

The Idaho WIC Program is committed to equal opportunity in the delivery of program services. Program benefits are made available to all eligible persons without discrimination based on race, color, national origin, sex, age, or disability.

COMPLAINTS OF DISCRIMINATION

Any person (applicant, potential applicant, or participant) who feels he or she has been excluded from participation in or denied the benefits of services because of discrimination on the basis of race, color, national origin, sex, age or disability may file a complaint within 180 days of the alleged discriminatory action. This person shall have the right to present evidence and/or respond to adverse action.

Examples of discrimination:

- Exclusion of eligible person(s) from participation in the program on the basis of race, color, national origin, sex, age, or disability
- The inequitable allocation of program benefits to eligible person(s) on the basis of race, color, national origin, sex, age, or disability
- Issuance of program benefits in a place, time or manner that has the effect of denying or limiting benefits on the basis of race, color, national origin, sex, age, or disability
- Segregation of person(s) in clinic waiting areas or through the appointment system on the basis of race, color, national origin, sex, age, or disability

- Failure to apply the same eligibility criteria to all potential eligible person(s) seeking participation in the WIC program

LIMITED ENGLISH PROFICIENCY (LEP) PERSONS

Local agencies shall ensure meaningful access to WIC as needed to assist in the certification procedure and delivery of any WIC services for persons with Limited English Proficiency (LEP).

- Hiring bilingual or staff interpreters
- Contracting with an outside interpreter service
- Making formal arrangements for the use of voluntary community interpreter services
- Contracting for the use of telephone language interpreter services

Applicants and potential applicants must be informed of the right to request an interpreter at no charge to the applicant/potential applicant. A family member or friend is not considered an acceptable interpreter unless the applicant specifically requests that person be allowed to interpret.

The Participant Rights and Responsibilities should be read in the appropriate language to any applicant/potential applicant who cannot read.

TRANSLATED MATERIALS

Local agency written materials should be provided in languages other than English when needed. The State WIC Office will provide translated certification and nutrition education materials in non-English languages when necessary.

Non-English language materials available from the State WIC Office include: Spanish (all applicant and participant materials).

To determine the obligation to provide the translation of a document in languages other than English, local agencies will consider the following:

- frequency of the language need
- nature of the document
- number of pages in the document
- financial burden to translate
- availability of alternate means of providing information contained in the document to Limited English Proficiency (LEP) participants.

When document translation is not provided, alternate means will be used. This may include oral translation, taped translation, telephone translation, or interpretation.

REFERENCE

FNS Instruction 113-1 Civil Rights (Nov. 14, 2005)

7 CFR 246.8 Nondiscrimination (01/01/03)

All States Memo 98-90: Nondiscrimination Policy Statement (05/21/98)

IDHW-Policy Memorandum 04-05 (Replaces 01-1): Procedure for Civil Rights Complaints

Reasonable Accommodation

OVERVIEW

A reasonable accommodation is making adjustments for the disability of an applicant by structuring appointments or policies to enable an individual with a disability to have equal access to services. Reasonable accommodation includes modifying written materials, making facilities accessible, adjusting appointment schedules, providing sign language interpreters, and modifying appointment sites. Reasonable accommodation does not mean a local agency must make costly, disruptive changes or changes which fundamentally alter the nature or operation of WIC.

POLICY

Local WIC agencies must have a procedure for making reasonable accommodations in a timely and cost-effective manner.

Requests for reasonable accommodation should be initiated by the individual needing the accommodation. Determining reasonable accommodation is a case-by-case process and depends on the circumstances of the particular situation. The State WIC Office is available for assistance in this area.

INDIVIDUALS WITH DISABILITIES

An individual with a disability is any person who has a physical or mental impairment that substantially limits one or more of an individual's major life activities, having a record of such impairment, or being regarded as having such impairment (e.g., self-care, eating, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working).

The term "physical or mental impairment" includes many diseases and conditions, a few of which may be:

- orthopedic, visual, speech, and hearing impairments
- cerebral palsy
- epilepsy
- muscular dystrophy
- multiple sclerosis
- cancer
- heart disease
- metabolic diseases, such as diabetes or phenylketonuria (PKU)
- food anaphylaxis (severe food allergy)
- mental retardation
- emotional illness
- drug addiction and alcoholism
- specific learning disabilities
- HIV disease
- tuberculosis

Please refer to Section 504 of the *Rehabilitation Act of 1973*, and the *Americans with Disabilities Act (ADA)* of 1990 for a more detailed explanation.

The local agencies will have a written procedure for serving WIC applicants and participants with physical disabilities if a facility is not accessible. Staff working in an office should be aware of the special accommodations available for that office.

REFERENCE

FNS Instruction 113-1, Civil Rights (Nov. 14, 2005)

Public Notification

POLICY

Each local agency will take positive and specific actions to implement a public notification program throughout its jurisdiction which informs participants and applicants, particularly minority populations, of their program rights and responsibilities, their protection against discrimination, and the procedure for filing a complaint. This includes:

- Displaying the nondiscrimination poster, “And Justice For All,” in prominent places such as a waiting room and other areas frequented by participants and applicants.
- Ensuring that appropriate staff, volunteers, or other translation resources are available to serve participants and applicants.
- Making available program regulations and guidelines to the public upon request.
- Providing participants and applicants access to civil rights information. This information includes procedures for filing complaints, program specifics, and Rights and Responsibilities of participants and applicants.

NOTE: An approved nondiscrimination statement must be included on all information printed or distributed with the WIC program listed or described on the material(s).

The nondiscrimination statement is required if the material:

- Describes eligibility requirements of the WIC program
- Identifies the benefits of WIC participation
- Describes participation of the WIC program
- Provides notice of conditions to continue eligibility
- Provides notice of ineligibility or disqualification

USE OF LONG STATEMENT

The complete nondiscrimination statement must appear on all written materials and correspondence that identify or describe the WIC program eligibility and/or ineligibility. The following is the required statement:

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by the USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. braille, large print, audiotope, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any

USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov .

This institution is an equal opportunity provider.

SHORT STATEMENT

When space is limited, a shorter statement is suitable when written materials are one page or less or are too small to contain the long statement. This statement should be in print size no smaller than the text of the document. The following is the accepted short statement: This institution is an equal opportunity provider.

When providing information for the radio and television public service announcements, the nondiscrimination statement does not have to be read in its entirety. Rather, a statement such as "WIC is an equal opportunity provider" is sufficient to meet the nondiscrimination requirement.

EXCEPTIONS

Nutrition education and breastfeeding promotion and support materials that strictly provide a nutrition message with no mention of WIC operations are not required to contain the nondiscrimination statement. If the nutrition education materials also contain information about WIC operations (e.g., clinic hours, authorized foods, rights and responsibilities), the nondiscrimination statement must be included. Outreach materials that are too small for the statement are exempt from the nondiscrimination statement requirement. Examples of these exceptions are pencils, pens, or small magnets.

POSTER

An approved nondiscrimination poster must be displayed in an obvious, easy to access, and readable location in each WIC office waiting room. More than one nondiscrimination poster may be displayed in the office. Posters are available from the State agency and may be ordered via the Quarterly Forms Order.

REFERENCE

WIC Program Policy Memorandum #2016-2 Updated Nondiscrimination Statement for WIC Materials7
CFR 246.8 Nondiscrimination (01/01/03)
FNS Instruction 113-1, Civil Rights (Nov. 14, 2005)
All States Memorandum 98-90: Nondiscrimination Policy Statement (05/21/98)
USDA Nondiscrimination Statement Update (October 14, 2015)

Racial/Ethnic Data Collection

OVERVIEW

Federal agencies, not State agencies, are required to compile information on multiple race combinations that represent one percent or more of the population served by the State agency. Therefore, the State WIC Office will be collecting this data, through local WIC agencies, for statistical reporting purposes only. This information will have no effect on determination of participant eligibility in the WIC program.

POLICY

Racial/ethnic information will be collected by local agencies for each WIC applicant at the time of certification.

PROCEDURE

WIC applicants will be asked to self-identify race and ethnicity to record in the WIC Information System Program (WISPr) or on the WIC Application Form. If the applicant does not self-identify race and ethnicity on the WIC Application Form, the WIC staff person must ask the participant to self-identify race and ethnicity, only after it has been explained that the collection of this information is for statistical reporting purposes and to monitor compliance with Federal civil rights laws. Participants should be informed that this information has no effect on the determination of their eligibility to participate in the WIC program.

NOTE: If the applicant declines to self-identify race and ethnicity, WIC staff should visually determine race and ethnicity and enter the data into WISPr. This should be done as discreetly as possible so as not to offend the applicant. A brief notation must be documented in WISPr that race and/or ethnicity was determined visually.

REFERENCES

FNS Instruction 113-1, Civil Rights (Nov. 14, 2005)
7 CFR 246.8 Nondiscrimination (01/01/03)
All States Memorandum 04-34 (05/21/04) Final Policy on WIC Racial/Ethnic Data Collection

Staff Training

POLICY

State and local agencies are required to conduct annual civil rights training for all WIC staff.

TRAINING/DOCUMENTATION

All WIC staff members must complete Civil Rights training yearly. Documentation of Civil Rights training must be kept on file at the local agency. A copy of the sign-up sheet is to be submitted to the State agency with the quarterly report for the quarter in which the training was completed. Documentation will include, but is not limited to:

- Sign-in sheet for attendees
- Date of training for attendees
- Agenda/outline of topic(s) covered in training
 - Specific subject matter must include, but not be limited to:
 - Collection and use of data
 - Effective public notification systems
 - Complaint procedures
 - Compliance review techniques
 - Resolution of noncompliance
 - Requirements for reasonable accommodation of persons with disabilities
 - Conflict resolution and customer service

REFERENCE

FNS Instruction 113-1, Civil Rights (Nov. 14, 2005)
7 CFR 246.8 Nondiscrimination (01/01/03)
USDA Nondiscrimination Statement Update (May 24, 2013)

Compliance Reviews

PROCEDURE

As part of local agency monitoring, the State WIC Office will conduct a civil rights compliance review. The following items must be determined as a minimum:

- Location of the nondiscrimination poster
- The local agency conducts civil rights training for all staff. The local agency keeps documentation of such training.
- Racial/ethnic data collection occurs according to policy and procedure.
- The nondiscrimination statement is included on all printed materials for the public, per policy.
- All civil rights complaints are handled per policy.
- Review of waiting lists (if applicable) and ineligible applications for civil rights issues.
- The local agency has a policy on how to provide reasonable accommodation.
- The local agency has a policy on how to provide language assistance services for persons with limited English proficiency (LEP).
- The local agency has a policy on how to ensure that program information is available to all applicants/participants (e.g., bilingual staff, interpreter services, written materials in other language(s)).
- Accessibility of physical environment for persons with disabilities.
- Interview staff about civil rights complaint procedures (i.e., how to process a complaint).

REFERENCE

FNS Instruction 113-1, Civil Rights (Nov. 14, 2005)
7 CFR 246.8 Nondiscrimination (01/01/03)
7 CFR 246.19(b) State Responsibilities (01/01/03)

SECTION C: COMPLAINTS AND INCIDENTS

OVERVIEW

Any person has the right to file a complaint if the person feels he or she has been excluded from participation or denied appropriate services. A member of the public has the right to file a complaint if he or she believes a participant is not eligible to receive WIC services. A vendor or local agency staff person has the responsibility to make a formal report if he or she feels a participant has not adhered to WIC regulations or procedures.

Frequently, complaints involve misunderstandings rather than a true denial of participation in WIC or denial of services. The investigation of complaints can assist local agencies in providing better service to applicants and participants.

Complaints are considered one of three types: program, vendor, or civil rights, depending on the nature of the complaint.

IN THIS SECTION

Reporting Complaints and Incidents
Program Complaints and Incidents
Vendor Complaints and Incidents
Civil Rights Complaints
Complaint or Incident Report Form

Reporting Complaints and Incidents

POLICY

Program: Any applicant or participant has the right to make a complaint if he/she feels they have been excluded from participation or denied appropriate services. A member of the public has the right to file a complaint if he or she believes a participant is not eligible to receive WIC services.

Vendor: A vendor or local agency staff person has the responsibility to make a formal report if he or she feels a participant has not adhered to the WIC Rights and Responsibilities.

Civil Rights: Any applicant, potential applicant, or participant has the right to file a complaint if they feel they have been excluded from participation or denied services based on race, color, national origin, sex, age, or disability.

No staff person shall intimidate, threaten, retaliate, or discriminate against a person who has made a complaint, testified, assisted, or participated in any manner during a complaint investigation.

TIMEFRAME

Complaints filed after the valid complaint period may not be investigated.

Program complaints must be filed within 90 days of the alleged action.

Vendor complaints must be filed within 90 days of the alleged action.

Civil rights complaints must be filed within 180 days of the alleged action.

NOTE: The State agency must be notified immediately if a civil rights complaint is received by the local agency. Refer to a specific topic in this section for details of the types of complaints mentioned above.

WHO CAN FILE

- Applicant or potential applicant
- Participant or Responsible Adult
- Member of the public
- Vendor
- Local agency staff person on behalf of self
- Representative chosen by the complainant
- Local agency staff person on behalf of the complainant

Complaints may be filed anonymously. When applicable, the complainant should be encouraged to provide his or her name to aid the investigation and be reassured that their identity will be kept confidential to the extent possible.

HOW TO FILE

Complaints can be made in person, by telephone, or in writing. Complainants may write the complaint or local agency staff should document the complaint if received via telephone or requested to do so by the complainant.

A Complaint or Incident Report Form can be used to file complaints or report incidents. It is not necessary to complete a form for every complaint. Professional judgment should be used to determine if a written complaint form is warranted. A written record of complaints received should be kept by the local agency regardless of whether the complaint form was used. If requested by a participant, a written complaint is required. Forward a copy of all written complaints to the State agency. The copy should include any action(s) taken by the local agency.

RECEIVING COMPLAINTS

Local agency staff must accept all complaints. Staff should not attempt to determine if the complaint is valid; instead, staff must make sure the complaint is handled according to procedures.

Complaints may be filed in person, by telephone, or in writing. Complainants may write the complaint or request local agency staff to assist in writing the complaint.

- In-person complaints can be made at local agency offices and should be referred to the local agency Coordinator or other person designated by the Coordinator.
- Telephone complaints can be made by contacting the local agency Coordinator (or other designated person) or the State agency at (208)334-5948 or toll free at (866)347-5484.
- Written complaints from applicants, participants, or vendors should be reviewed by the local agency Coordinator and a copy forwarded to the State agency. If a resolution was reached at the local agency, the Coordinator must document this prior to sending a copy of the complaint.

NOTE: All civil rights complaints (whether in person, verbal or written) must be forwarded to the State agency and the State agency must forward the complaint to the USDA.

RESOLUTION

Many times, complaints involve misunderstandings rather than true denial of participation or services.

REFERENCE

FNS Instruction 113-1, Civil Rights (Nov. 14, 2005)
246.7(c)(2)(vi) Verification of income. (01/01/03)
246.8 Nondiscrimination (01/01/03)
State policy

Program Complaints and Incidents

POLICY

Any person has the right to make a complaint if they feel they have been excluded from participation or denied appropriate services. A member of the public may file a complaint if he or she believes a WIC participant is not eligible for WIC services. This type of complaint is investigated as potential fraud. It is desirable for program complaints to be handled by the local agency Coordinator. If the Coordinator is not available, the complaint should be referred to the person in charge. The State agency is available for consultation.

TIMEFRAME

The program complaint must be filed within 90 days of the alleged action. Complaints filed after the valid complaint period may not be investigated.

WHO CAN FILE

- Any applicant, potential applicant, participant, representative chosen by the complainant, or a WIC staff person on behalf of the complainant.
- Complaints may be filed anonymously.

HOW TO FILE

Complaints can be made in person, by telephone, or in writing. Complainants may write the complaint or local agency staff should document the complaint if received via telephone or requested to do so by the complainant.

A Complaint or Incident Report Form can be used to file complaints or report incidents. It is not necessary to complete a form for every complaint. Professional judgment should be used to determine if a written complaint form is warranted. A written record of complaints received should be kept by the local agency regardless of whether the complaint form was used. If requested by a participant, a written complaint is required. Forward a copy of all written complaints to the State agency. The copy should include any action(s) taken by the local agency.

RESOLUTION PROCEDURES

Many times, complaints involve misunderstandings rather than true denial of participation or services. Complaints will be investigated by the local agency Coordinator and forwarded to the State agency for action, if warranted. Complaints filed directly with the State agency will be investigated by the State agency.

DOCUMENTATION

A copy of all complaints and related documentation must be maintained in each local agency. The State agency recommends the documentation be maintained in a central file. This allows for easier auditing for proper resolution procedures and maintains better confidentiality, possibly reducing the chances of retaliation.

NOTE: The local agency must have a local policy if it prefers to retain a copy in participant files.

REFERENCE

246.7(c)(2)(vi) Verification of Income (01/01/03)
State policy

Vendor Complaints and Incidents

POLICY

Any participant has the right to make a complaint if the person feels he or she has been excluded from participation or denied appropriate services while at a vendor location. Vendors have the right to file an incident report if the vendor feels a participant has not followed correct procedures while using the Idaho eWIC card at the vendor's location.

Local agency staff must accept all incident reports. They should not attempt to determine if the complaint is valid; instead, staff must make sure the complaint is handled according to procedures.

No staff person shall intimidate, threaten, retaliate, or discriminate against a person who has made a complaint, testified, assisted, or participated in any manner during a complaint investigation.

TIMEFRAME

A vendor complaint or incident report must be filed within 90 days of the alleged action. Complaints filed after the valid complaint period may not be investigated.

WHO CAN FILE

- Any participant or representative chosen by the participant
- Any vendor
- Local agency staff person on behalf of the participant or vendor

HOW TO FILE

Complaints can be made in person, by telephone, or in writing. Local agency staff should document the complaint if received via telephone or requested to do so by the complainant.

A Complaint or Incident Report Form can be used to file complaints or report incidents. It is not necessary to complete a form for every complaint. Professional judgment should be used to determine if a written complaint form is warranted. If requested by a participant, a written complaint is required. Forward all written vendor complaints to the Vendor Coordinator at the State agency.

RESOLUTION PROCEDURES

Many times, complaints involve misunderstandings rather than true denial of appropriate services. If the complaint or incident report is determined to be valid, the Vendor Coordinator will work with the local agency coordinator and vendor to address and/or resolve the situation.

DOCUMENTATION

A copy of all vendor complaints and related documentation must be maintained in each local agency. The State agency recommends the documentation be maintained in a central file. This allows for easier auditing for proper resolution procedures and maintains better confidentiality, possibly reducing the chances of retaliation.

REFERENCE

State policy

Civil Rights Complaints

POLICY

Any applicant, potential applicant, or participant alleging discrimination based on race, color, national origin, sex, age, or disability has the right to file a complaint within 180 days of the alleged discriminatory action.

WHO CAN FILE

A civil rights complaint can be filed by the person(s) alleging discrimination on the basis of race, color, national origin, sex, age, or disability, or a representative chosen by the complainant or a local agency staff person on behalf of the complainant.

HOW TO FILE

The complaint may be initiated at a local agency office, State WIC Office, USDA, or IDHW Office of Civil Rights.

All civil rights complaints, verbal or written, shall be accepted by the local agency. If a complaint is verbal, local agency staff will document the complaint using the Idaho WIC Program Complaint or Incident Report Form when the complaint is received by telephone or if requested to do so by the complainant. Local agency WIC staff and State agency WIC staff must document and report all complaints according to the procedures outlined, regardless of whether or not a complainant requests the reporting or processing of such complaint. These complaints should then be reported as anonymous. Anonymous complaints will be handled as any other complaint.

NOTE: The State WIC Office must be notified immediately if a civil rights complaint is received by the local agency.

Idaho WIC Program
Dept. of Health and Welfare
450 West State Street, 1st Floor West
P.O. Box 83720
Boise, ID 83720-0036
Fax: (208) 332-7362

The State WIC Office will forward any civil rights complaint to USDA within 10 days.

Civil Rights Division (CRD)
3101 Park Center Drive, Suite 808
Alexandria, VA 22302

DOCUMENTATION

To protect the confidentiality of the complainant, documentation related to civil rights complaints will not be kept in a participant's chart. A copy of all civil rights complaints and related documentation must be maintained in a civil rights file in each local agency. A common file for the entire agency or one file per clinic location is acceptable. The State WIC Office will maintain a file documenting all civil rights complaints.

REFERENCE

FNS Instruction 113-1 Civil Rights (Nov. 14, 2005)
7 CFR 246.8 Nondiscrimination (01/01/03)
IDHW - Policy Memorandum 04-05 (replaces no. 01-1) Procedure for Civil rights complaint

Complaint or Incident Report Form

POLICY

A Complaint or Incident Report Form can be used to file complaints or report incidents. A copy of each completed form must be forwarded to the State agency.

The use of professional terminology and objective information is strongly recommended when a staff person completes the form. A confidential copy of the form may be provided to vendors and participants as part of the investigation.

COMPLETING THE FORM:

Front Side

- **Date and Time**
When did it happen? Identify the date of the alleged action. This is important because there are time limits for filing different types of complaints.
- **Location**
Describe the clinic or vendor location where the situation or incident occurred. It is virtually impossible to follow up a complaint without knowing where it happened. For example, specify the location of a grocery store.
- **People Involved**
Identify the people involved by full name (best) or describe the person if the name is unknown. It is also helpful to include contact information (if known) to assist the investigator.
- **Nature of the Complaint**
Describe what happened, including enough information to aid in the investigation and resolution of the complaint. It is also helpful to learn why the complainant feels this situation happened.
- **Remedy Sought by Complainant**
Describe what the complainant believes would rectify the situation. Investigations will proceed more effectively if the investigator knows the desired outcome at the start.

- **Identity of the Complainant**
Include as much information as possible so the investigator can contact the person, if necessary. Basic identity includes name, telephone number, mailing address, and relationship to the situation. The complainant relationship is important because it impacts how the complainant can be involved in the resolution.

Back Side

- If actions have been taken to resolve the complaint, describe the actions. This portion may be completed by the person who worked to resolve the complaint or the local agency coordinator.
- It is also acceptable for this portion to be left blank, if local agency staff have not taken action, usually because staff is aware of the complaint or incident and looking into further.

ALTERNATE FORM

Complaints can also be taken without using the form. At a minimum, the written complaint should include information described in Completing the Form. A written record of complaints received should be kept by the local agency regarding of whether the complaint form was used.

ANONYMITY

Complaints may be filed anonymously. When applicable, the complainant should be encouraged to provide his or her name to aid the investigation and be reassured that their identity will be kept confidential to the extent possible.

REFERENCE

State policy

SECTION D: PROGRAM VIOLATION

OVERVIEW

Program violation means any intentional action by a participant, parent, caretaker of an infant or child participant, or proxy that violates Federal or State statutes, regulations, policies or procedures governing the WIC Program.

IN THIS SECTION

- Employee Duty Restrictions
 - Employees, Family or Friends as Participants
 - Separation of Duties
 - Conflict of Interest
 - Participant Violation and Disqualification
 - Definitions
 - Participant Disqualification for Program Fraud
 - Infant/Child Disqualification
 - Participant Rights and Responsibilities When Disqualified
 - Exception for Disqualification
 - Reapplication
 - State and Local Agency Responsibilities
 - Violations
 - Repayment
 - Employee Investigation
-

Employee Duty Restrictions

POLICY

Staff duties should be assigned to minimize the potential for fraudulent activities and ensure integrity. Local agency Coordinators are encouraged to write a local procedure to address this requirement.

EMPLOYEES, FAMILY OR FRIENDS AS PARTICIPANTS

PURPOSE

Provide explanation and direction for managing situations when certification may not be achievable for local agencies when employees, family or friends are participants.

POLICY

An employee should not certify or determine eligibility for oneself, close friends, or immediate family members. These tasks should be performed by another staff member.

Examples of family include parents, siblings, children, grandparents, in-laws, aunts, or any step-family members. Friends are defined as any close acquaintance or a person the staff member spends time with outside work, such as a babysitter or a best friend of that staff member's child.

Staff must not issue food benefits to themselves as a WIC participant or to any participant they act as the RA or second cardholder. Staff may be the RA Second Cardholder, or proxy for a participant that is a family member or close friend as long as the participant is listed on the COI and the staff member does not conduct any appointments for the participant.

In local agencies and clinics, the following procedures should be performed to avoid a conflict of interest:

- Staff should be rotated at the clinic site and allow for:
 - Arrangements for the family member or friend to be certified and issued benefits by another staff member.
 - Rescheduling family members or friends for a time when another staff member is available, when possible or appropriate.
- Suggest the family member or friend participates at a different WIC clinic or agency when it's possible or appropriate and doesn't cause hardship for the participant, responsible adult or caretaker.

CONFLICT OF INTEREST

All State and local agency staff must sign a Conflict of Interest form disclosing the name(s) and relationship(s) of participants that are close friends, immediate family members, or when they themselves are participating in WIC. Staff must also disclose any relationship between themselves and WIC authorized vendors. These relationships include staff, immediate family members, or close friends who have any financial interest in any Idaho WIC authorized vendor. If there is no conflict of interest to disclose, staff should still submit a signed Conflict of Interest form stating there is no conflict of interest to disclose.

The following rules apply to all WIC staff:

- Staff must not show any favoritism by oral or written communication, posters, handouts, or media presentations towards any Idaho WIC authorized vendor.
- Staff will not endorse or discourage the use of any Idaho WIC authorized vendor to WIC participants.
- Staff will not receive any gratuities including cash, food, or food coupons not available to the public from an Idaho WIC authorized vendor.

The local agency is responsible for having staff update their Conflict of Interest forms on a yearly basis. This can be done by having staff complete a new Conflict of Interest form each year, or by having staff date and initial their most recent Conflict of Interest form to confirm there are no changes. These forms should be reviewed by a supervisor at least once a year to ensure no conflict of interest has occurred. These forms must be maintained at the local agency for review by State staff.

SEPARATION OF DUTIES

PURPOSE

Provide explanation of the requirement for separation of duties in determining income eligibility and medical/nutritional risk. Offer guidance for managing situations when separation of duties may not be achievable for local agencies.

POLICY

Separation of duties is a standard accountability and security practice taken by local agencies to separate income eligibility determination and medical/nutritional risk determination between at least two staff

members when possible. In a local agency clinic with more than one staff member, there will be a procedure to ensure that the staff person who determines income eligibility for a participant does not also determine medical/nutrition risk for the same participant. Either person may issue food benefits.

In the event that local agencies operate small clinics or satellite clinics with only one staff member, or if a clinic routinely meets the separation of duties requirement, but due to unusual circumstances there is only one staff member present in the clinic, the local agency must implement a post review to ensure program integrity is maintained, and to identify/prevent program violations and fraud.

The post review must meet the following requirements:

- Be performed by an individual, other than the certifier, that has the authority to change an eligibility determination. This could be the Coordinator, Supervisor, Lead, or Registered Dietitian.
- Be completed within two weeks of certification.
- Include all certification records for infants receiving any infant formula, and at least 20 percent of a random sample of the remaining certification records.
- Include a review of the following documentation in participant files:
 - Income – source and amount
 - Identity – full name and source of proof
 - Residency – physical address and source of proof
 - Nutrition Risk – look for an unusual amount of like or similar nutrition risk codes between participant files reviewed
 - Things that are unusual or inconsistent, such as an inappropriate or missing height or weight for the category, transactions occurring outside regular clinic hours, or presence of infant record with no corresponding mother participant.

Electronic or hard copy documentation of the post reviews must be maintained at the local agency for four years and available for review by State staff during on-site monitoring.

REFERENCE

All States Memorandum 99-94 (7/8/99) Separation of Duties in WIC Clinic Operations
7 CFR 246.4 (a)(26)(i-iii) State Plan Requirements
Alaska WIC Polict
Washington State WIC Policy and Procedure Manual
WIC Policy Memorandum #2016-5: Separation of Duties at WIC Local Agencies
Separation of Duties Policy Memorandum #2016-5, Frequently Asked Questions

Participant Violation and Disqualification

PARTICIPANT DISQUALIFICATION FOR PROGRAM FRAUD

Idaho WIC Program participants shall receive written warning or be disqualified when documentation verifies that participant fraud has occurred. Serious violations of program integrity, such as selling an eWIC card, will result in disqualification without any warning.

The State WIC agency reserves the right to disqualify participants for other actions not listed herein if the participant violates program policies and regulations.

Participant violation activities and actions include, but are not limited to:

- Making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain WIC program benefits
- Exchanging eWIC cards or supplemental foods for cash, credit, non-food items, or unauthorized food items

- Physically harming or threatening to harm WIC clinic staff or vendor staff or property belonging to the WIC clinic or vendor
- Participating in more than one WIC clinic or participating in the WIC Program and in Commodities Supplemental Food Program (CSFP) at the same time (dual participation)
- Theft of eWIC cards
- Misuse of program benefits and/or equipment in direct conflict with policy

INFANT/CHILD DISQUALIFICATION

When the participant being disqualified is an infant or a child, the Responsible Adult is the one to be disqualified. The infant or child can continue to receive benefits and participate during disqualification if another Responsible Adult or proxy is designated. If the Responsible Adult represents multiple infants and/or children, all infants and children can remain on the program under the preceding conditions.

PARTICIPANT RIGHTS AND RESPONSIBILITIES WHEN DISQUALIFIED

Participants have the right to appeal any denial, claim or disqualification at a fair hearing. Participants shall be provided, within a minimum of 15 calendar days, written notice prior to disqualification.

EXCEPTION FOR DISQUALIFICATION

The State WIC Agency may decide not to impose a mandatory disqualification if, within thirty (30) days of receipt of the notice of repayment, full restitution is made or a repayment schedule is agreed upon.

REAPPLICATION

A participant that has been disqualified may reapply for the WIC Program at the end of a disqualification period or the full repayment of a claim. However, they must meet all current eligibility criteria before certification.

STATE AND LOCAL AGENCY RESPONSIBILITIES

| STATE RESPONSIBILITIES | LOCAL AGENCY RESPONSIBILITIES |
|---|--|
| <p>The State agency will verify information regarding alleged participant abuse or fraud and retain the documentation in which a repayment or disqualification occurred. This will include:</p> <ul style="list-style-type: none"> • Name of participant • Reason for and amount of claim • Dates that certified letters were sent • Date and disposition of a requested Fair Hearing • Date and repayment schedule of a restitution agreement • Date and amounts of restitution collected (including in-kind services) • Date that further collection actions ceased due to a cost-benefit analysis | <p>The local agency will document all allegations of program abuse or fraud on the Idaho WIC Complaint or Incident Report form and/or in the computer.</p> <p>In all cases where program abuse or fraud is alleged against a participant, the local agency shall submit a Complaint or Incident Report form and accompanying documentation to the State agency.</p> <p>The local agencies shall consult with the State agency prior to taking any action regarding participant abuse or fraud. If there is a sanction action, the local agency will advise the participant of the program requirement(s) they violated. (What they did wrong and the correct procedure.)</p> |
| <p>When an investigation has verified fraud or abuse, the State agency will send a certified letter to the</p> | <p>The local agency will provide program benefits to participants who appeal disqualification within 15</p> |

| STATE RESPONSIBILITIES | LOCAL AGENCY RESPONSIBILITIES |
|--|--|
| <p>participant regarding the sanction and, if appropriate, the amount of repayment. A copy of the certified letter will be sent to the local agency.</p> <p>The State agency will determine the amount of funds improperly received by the participant. The State agency will use the total purchase price of the WIC food benefits.</p> <p>The State agency will inform the participant of the right to appeal a claim or a program disqualification.</p> <p>The State agency will provide an informal dispute resolution meeting and/or a Fair Hearing.</p> <p>The State agency will collect repayments prior to providing benefits.</p> | <p>calendar days of the written notification of disqualification until the appeal is decided, the participant becomes categorically ineligible, or the certification period expires, whichever occurs first.</p> <p>If the violation is one that warrants a warning letter, the local agency Coordinator will create the letter and either mail the letter or have the participant read and sign the letter at the next WIC appointment.</p> |

VIOLATIONS

Three (3) documented violations, beyond the warning letter(s), of any combination of the violations listed below will result in a one (1) year disqualification period. The three (3) documented violations must be committed within a 12-month period.

If there are less than three (3) combinations of violations with different sanctions, the participant shall receive the maximum sanction.

| VIOLATIONS | NUMBER OF OFFENSES | SANCTIONS |
|--|--------------------|--|
| Allowing an unauthorized person to use the eWIC card | 1 2 3 | Warning letter 30-day disqualification and repayment 1-year disqualification and repayment |
| Using an eWIC card to buy unauthorized food costing \$99.99 or less | 1 2 3 | Warning letter 30-day disqualification and repayment 1 year disqualification and repayment |
| Creating a public nuisance, threatening harm, or disrupting normal activities at the local agency or at the vendor (store) | 1 2 3 | Warning letter 30-day disqualification 1-year disqualification |
| False statement or misrepresentation of income, name, residence, family size, medical data, pregnancy, or date of birth to obtain WIC benefits | 1 2 | 90-day disqualification and repayment 1-year disqualification and repayment If unintentional, warning letter |
| Exchanging an eWIC card for credit or non-food items | 1 | 1-year disqualification and repayment |
| Attempting to sell an eWIC card | 1 | 1-year disqualification |

| VIOLATIONS | NUMBER OF OFFENSES | SANCTIONS |
|--|--------------------|--|
| Selling eWIC card | 1 | 1-year disqualification and repayment |
| Attempting to sell or give away supplemental food that was purchased with an eWIC card | 1 2 | 90-day disqualification 1-year disqualification If unintentional, warning letter |
| Selling or giving away supplemental food that was purchased with an eWIC card | 1 2 | 90-day disqualification and repayment 1-year disqualification and repayment |
| Using an eWIC card at an unauthorized vendor (store) | 1 2 3 | Warning letter 90-day disqualification and repayment 1-year disqualification and repayment |
| Using an eWIC card to buy unauthorized food equaling \$100 or more | 1 | 1-year disqualification and repayment If unintentional, warning letter. |
| Theft of an active eWIC card | 1 | 1-year disqualification, repayment, and reported to law enforcement |
| Physically abusing WIC or vendor staff/property | 1 | 1-year disqualification and reported to law enforcement |
| Dual participation—using benefits from two WIC programs/agencies in the same month, includes CSFP. | 1 | 1-year disqualification and repayment of the dual benefits. |
| Intentional dual participation | 1 | 1-year disqualification from all programs and repayment of all benefits |
| Assessed claim for \$100 or more. A claim is the amount of a repayment. | 1 | 1-year disqualification and repayment If unintentional, warning letter. |
| Assessed second or subsequent claim for any amount | 1 | 1-year disqualification and repayment |

REPAYMENT

The State agency will be responsible for all documentation of the participant's violation and repayment. The designated Department of Health and Welfare personnel will track claims, record funds received, send the participant or Responsible Adult or caretaker a receipt of payment received and monitor remaining balances due. The State agency will notify the participant when the claim is paid in full. All actions and determinations, including a determination that it is not cost effective to pursue further collection actions, must be documented in the case file.

The State agency may pursue repayment through a state collection agency or another collection agency, including the federal government.

Terms of Repayment

- The term of repayment schedule will be no longer than twelve (12) months and no less than \$10.00 per month.

- Repayment must be made via check or money order payable to the "Idaho WIC Program." No cash will be accepted.
- Repayment must include with the check or money order a clear identification of the participant's name, client ID number, family ID number, and reason for repayment.
- A letter outlining the program violation along with payment envelopes will be sent via certified mail to the WIC participant or Responsible Adult or caretaker who committed the violation.
- A copy of the signed Participant Rights and Responsibilities form will accompany the letter. The State agency will contact the local agency WIC Coordinator to obtain a copy from the participant file and to inform them of the actions being taken.
- If, at any time, the State agency determines that the participant, Responsible Adult, or caretaker of child or infant WIC participants is at least two (2) payments behind, the participant or Responsible Adult, or caretaker will be disqualified from the program. The number of months of disqualification will be determined as a pro-rated portion of the original penalty based on the percentage of months of unpaid restitution.

Employee Investigation

Employees who are participants are also subject to participant program violation policies. All employee fraud cases involving benefits are investigated by the local agency, the State agency, law enforcement, and/or the Department of Health and Welfare Fraud Investigation Unit.

Employee program violations include, but are not limited to:

- Disregard for confidentiality of program information
- Physically harming or threatening to harm other WIC clinic staff or vendor staff, or property belonging to other WIC clinic staff or vendor staff
- Falsely obtaining benefits for self or others
- Theft of program supplies/equipment
- Failure to report knowledge of any of the above situations

NOTE: Employee fraud case investigations must be documented and such documentation is kept for a minimum of ten years.

REFERENCE

- 7 CFR 246.7 (l) Dual Participation
- 7 CFR 246.7 (j) Notification of Participants Rights and Responsibilities
- 7 CFR 246.9 Fair Hearings
- 7 CFR 246.12 (u) Participant Violations and Sanctions (Referral for Prosecution)
- 7 CFR 246.23 (c) Claims against Participants

SECTION E: FAIR HEARINGS

OVERVIEW

The purpose of this section is to help clinic staff answer questions from WIC participants about the fair hearing procedure. In Idaho, the WIC program is required to follow the hearing procedures set forth by the Department of Health and Welfare and Federal regulations.

IN THIS SECTION

Notification of Right to Fair Hearing

Notification of Right to Fair Hearing

POLICY

The following situations require the notification of the right to a fair hearing:

- The participant is denied participation at time of certification
- The participant is suspended/disqualified mid-certification
- The WIC program makes a claim against a WIC participant for repayment of the cash value of improperly issued benefits

Notification is not required at the expiration of a certification period.

NOTICE REQUIREMENTS

At the time of a claim against an individual for improperly issued benefits, participation denial, suspension or disqualification, the local agency must inform the individual in writing of:

- The right to a fair hearing
- The method used to request a hearing
- The fact that positions or arguments on behalf of the individual may be presented personally or by a representative such as a relative, friend, or legal counsel

TIMEFRAME

A request for a hearing must be made within 60 days from the date the State WIC office or local agency mailed or gave notice of adverse action to deny or terminate benefits.

The person requesting the fair hearing will receive written notification at least 10 days prior to the conduct of the hearing.

The results of the hearing will be provided within 45 days of the request for fair hearing.

WHO CAN REQUEST

Any applicant or participant aggrieved by any action of the Idaho WIC Program which results in the individual's denial of participation, suspension, disqualification, or termination from the program, may request a hearing.

The right to make such a request will not be interfered with in any way.

The request can be made by the applicant or participant or some other person acting on the applicant or participant's behalf, such as a legal counsel, friend, or household member.

HOW TO REQUEST

A request for a hearing is any clear expression by the individual, individual's parent, caretaker, or other representative that they want to present their case to a higher authority.

The hearing request may be made orally or in writing. If orally, local agency may write the request for the individual.

The Fair Hearing Request Form must be provided to anyone who requests it. A copy of the completed request form should be given to the individual making the request.

CONTINUATION OF BENEFITS

Except for participants whose certification period has expired, participants who appeal the termination of benefits within the 15 days of this action shall continue to receive program benefits until the hearing officer reaches a decision or the certification period expires, whichever occurs first.

Participants whose certification period has expired or who have become categorically ineligible during the appeal process will not receive program benefits while awaiting the hearing decision.

Applicants who are denied benefits at initial certification or expiration of their certification may appeal the denial, but will not receive benefits while awaiting the hearing decision.

WIC Program funds may not be used to pay for retroactive benefits.

PROCEDURE

The applicant or participant must receive an explanation of the fair hearing procedures. All requests for a fair hearing must be sent to the State WIC Office as soon as a local WIC office receives the request. Staff should ensure contact information for the participant is current in order to contact them with further details. Attach a copy of the letter of ineligibility or claim for repayment when sending the fair hearings request to the State WIC Office.

The State or local agency shall ensure that the hearing is accessible to the applicant or participant and is held within three weeks from the date the State or local agency received the request for a hearing. The State WIC Office will notify the Idaho Department of Health and Welfare, who will maintain responsibility for appointing the Hearing Officer and conducting the hearing according to federal WIC requirements and Department procedures.

A hearing officer will be assigned and must have a minimum of a Juris Doctor (JD) and be licensed to practice in the state of Idaho. The hearing officer is the person designated to lead the hearing and be an impartial official who does not have any personal stake or involvement in the decision. They must not be directly involved in the initial determination of the action being contested such as a staff member of the Health District WIC program or State Office WIC program.

The hearing officer will provide written notice 10 days in advance. The notice will identify the time, place and nature of the hearing. They may also include additional information as appropriate such as a

statement of the legal authority under which the hearing is to be held, the particular sections of any statutes and rules involved and the right to be represented. The notice must identify how and when documents for the hearing will be provided to all parties.

The hearing officer may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues, obtain admissions or stipulations of fact and documents, identify whether there is any additional information that had not been presented to the Department with good cause, arrange for exchange of proposed exhibits or prepared expert testimony, limit the number of witnesses, determine the procedure at the hearing and to determine any other matters which may expedite the hearing.

At the request of the applicant or participant, the hearing officer may issue subpoenas for witnesses or documents.

If the applicant or participant fails to appear at a scheduled hearing or at any stage of a contested case, the hearing officer must enter a proposed default order. The default order must be set aside if, within fourteen (14) days of the date of mailing, that individual submits a written explanation for not appearing, which the hearing officer finds substantial and reasonable.

If necessary, an interpreter will be provided by the Department.

The hearing officer will consider only information available to the Department at the time the decision was made. If the applicant or participant shows that there is additional relevant information that was not presented to the Department with good cause, the hearing officer will remand the case to the Department for consideration. No hearing officer has the jurisdiction or authority to invalidate any federal or state statute, rule, regulation, or court order. The hearing officer must defer to the Department's interpretation of statutes, rules, regulations or policy unless the hearing officer finds the interpretation to be contrary to statute or an abuse of discretion. The hearing officer will not retain jurisdiction on any matter after it has been remanded to the Department.

Initial results must be issued by the hearing officer no later than thirty (30) days (or within 45 days per federal regulation) after the case is submitted for decision. The order must be inclusive of all specific findings such as a reasoned statement in support of the decision, all other findings and recommendations of the hearing officer, a preliminary decision affirming, reversing or modifying the action or decision of the Department, or remanding the case for further proceedings and the procedures.

DENIAL OR DISMISSAL OF REQUEST

The State WIC Office will not deny or dismiss a request unless the following have occurred and/or upon legal counsel provided by the Department.

- Request is received after the 60-day time limit.
- Request is withdrawn, in writing, by the applicant or authorized representative.
- Appellant or representative fails, without good cause, to appear at the scheduled hearing.
- Appellant has been denied participation by a previous hearing and cannot provide evidence that circumstances relevant to program eligibility have changed.

REFERENCE

7 CFR 246.9 Fair hearing procedures for participants
State of Idaho, Department of Health and Welfare Administrative Rules, 16.05.03 Contested cases and declaratory rulings

Law School Admission Council (LSAC). Understanding the Difference Between JD & LLM Degrees (2015).

SECTION F: DISASTER RECOVERY

OVERVIEW

WIC is classified as an essential service during a disaster or emergency. This section describes the division of responsibility for service continuation in the event of a natural disaster, computer system failure, or other emergency situation.

IN THIS SECTION

Local Agency Responsibilities
State Agency Responsibilities
Food benefits issued by State Agency
Contaminated Water

Local Agency Responsibilities

POLICY

The following procedures will vary depending on the circumstances of the disaster or emergency.

1. Clinic staff should notify the local agency Coordinator as soon as possible of the emergency situation.
2. The Coordinator should notify the State WIC Office of the emergency situation.

INFORMATION NEEDED BY STATE AGENCY

- Nature of the disaster or emergency
- Clinics affected
- Number of participants involved
- Water supply/safety problems: check with Bureau of Community and Environmental Health – 1-866-240-3553 – www.healthandwelfare.idaho.gov – bceh@dhw.idaho.gov; or Department of Environmental Quality – 208-373-0502 – <http://www.deq.idaho.gov/>
- The next scheduled clinic day
- Number of potential vendors involved
- Changes made to assist participants

FOOD BENEFIT ISSUANCE

State agency will work with the local Coordinator regarding issuance of food benefits.

Options:

1. eWIC cards and food benefits can be assigned, issued and/or replaced at another nearby site.
2. The eWIC processor's Customer Service Line (also called the IVR) can assign replacement eWIC cards and mail them to the participant. The benefits transfer to the replacement eWIC card.
3. Benefits can be loaded to the eWIC card remotely.

Clinics are responsible for food benefit issuance documentation.

Issue one month of food benefits only.

PARTICIPANT EDUCATION

Certain areas within the state are at high risk for floods, fire, road problems, snowstorms, etc. Education classes should be provided for participants living in these areas. Information is not limited to, but should include: what to do about inaccessible stores, what to do with food benefits that aren't redeemed, and what to do about contaminated water.

FORMULA

The State WIC Office will work with the local agency Coordinator to determine formula needs (e.g., Ready to Feed (RTF) formula).

VENDORS

State Vendor Coordinator will determine vendor procedures during the disaster and will work with the vendors as needed.

REFERENCE

State policy

State Agency Responsibilities

POLICY

The following procedure will vary depending on the circumstances of the disaster or emergency.

State WIC Program Manager will coordinate disaster or emergency response. The State agency will document all disaster or emergency operations.

Document Information from Clinic:

- Nature of the disaster or emergency
- Number of clinics affected
- Number of participants involved
- Water supply problems
- Next scheduled clinic day
- Number of potential vendors involved
- Changes made to assist participant

VENDOR RELATIONS

The State agency will work with vendors during the disaster to accommodate needs of participant and eWIC Card and/or food benefit issues. The Vendor Coordinator will take the lead in this effort.

- Researching alternative stores
- Notifying vendors of procedures

RED CROSS

If needed, the State agency will contact the Red Cross during a disaster or emergency to deliver formula, supplies, etc.

FOOD BENEFIT ISSUANCE

The State agency will issue eWIC cards and food benefits if they cannot be issued in an outlying clinic or closer to participants in need. State agency will work with local Coordinator to determine location of eWIC card issuance.

MINIMUM STOCK REQUIREMENTS

At the State agency's discretion, minimum stock requirements may be temporarily adjusted to the following:

- two different fruits,
- two different vegetables, and
- one whole grain cereal that is included on the WIC Authorized Food List.

Once stock shortages caused by the disaster or emergency are no longer a concern, standard minimum stock requirements will be reinstated.

Infant formula must be obtained only from the list of authorized formula suppliers provided in the Idaho WIC Program Vendor Agreement.

FORMULA

The state nutrition and vendor coordinators will work with the local agency coordinator to:

- Assess formula needs (type and amount)
- Order formula or formula samples from manufacturers, if needed
- Arrange for mailing formula or formula samples, if needed

BREASTFEEDING

The State Breastfeeding Coordinator will work with breastfeeding mother/infant separation concerns and issues involving breast pumps.

PARTICIPANT NOTIFICATION

Notification will be posted on WISPr and the home page of the Idaho WIC Website.

The State office will contact JPMA to add an eWIC outage alert banner to the Idaho WICShopper app. When a participant clicks on the banner, outage details will display.

DATA

Data is preserved as illustrated in the WIC Information System (WISPr) Infrastructure document. (see Appendix A – WISPr EBT Infrastructure.pdf)

REFERENCE

State policy

eWIC Cards and Food Benefits Issued by State Agency

POLICY

1. Clinic notifies State agency which participants need to have eWIC cards and food benefits issued.
2. eWIC cards are issued, loaded with food benefits, and mailed to another clinic or to the participant.

REFERENCE

State policy

Contaminated Water

POLICY

If contaminated water warnings last for several weeks, RTF formulas may need to replace powdered or concentrated formulas.

The State agency should:

1. Find out how many participants and which vendors are involved.
2. Determine if RTF formula is available in other clinics.
3. Contact involved vendors with approximate amount of formula needed.

REFERENCE

State policy

SECTION G: MEMORANDUM OF UNDERSTANDING (MOU)

OVERVIEW

In general, a Memorandum of Understanding (MOU) is a written document between two or more parties in which they agree to perform certain complementary functions in service of a common goal.

Federal WIC regulations and USDA policy require MOUs or agreements in order to disclose client information to other public health or welfare programs for the purpose of eligibility for program services (State agency function). MOUs may also be developed for other purposes, e.g., delineation of responsibilities or activities to be conducted (local agency function).

IN THIS SECTION

Memorandum of Understanding (MOU)

Memorandum of Understanding (MOU)

POLICY

State and local WIC agencies must develop MOUs with other agencies/programs to ensure coordination of services and confidentiality (e.g., Medicaid, SNAP, Immunizations, Head Start). Participant information must not be released without a signed release of information. This includes telephone requests. Confidential participant information includes any information about an applicant or participant, whether it is obtained from the applicant or participant, another source, or generated as a result of WIC application, certification, or participation, that individually identifies an applicant or participant and/or family member(s).

At minimum, MOUs should include:

- Parties to the Agreement
 - The WIC Program needs to be specified as a party to the agreement.
- Background
 - Provide specific details of what participant information is being shared and why.
- Purpose
 - Summarize the specific use of the participant information being shared for non-WIC purposes.
 - The responsibilities of each party involved.
 - Define the sole purpose of the participant information being used and agree the information will not be shared with a third party or utilized for any other purpose.
- Terms of the Agreement
 - The duration of the agreement (for example, one year)
- Signatures with dates from both parties

See sample MOU in the Forms and Attachments chapter of this manual.

PROCEDURE

State and local WIC agencies must have MOUs in place prior to sharing confidential information with any program (within or outside of the agency) in which services are coordinated and/or participant information is shared, MOUs will be kept updated. Once the duration of the agreement expires, renewal is required as long as information continues to be shared.

Examples of agencies where MOUs must be in place include:

- Medicaid
- SNAP
- Immunization program
- Head Start
- Family planning
- County extension offices

Agencies sharing patient information with multiple programs within their health district have the option to create one MOU as long as it specifies all of the individual programs within the district sharing information.

When participant information is released in an MOU agreement, in addition to the MOU, local agencies must have a separate consent form signed by participants to notify them their information will be shared with another party. Participants must be allowed the option to refuse the release of information and be notified that signing of the form is not a condition of eligibility and refusing to sign the form will not affect the applicant's or participant's eligibility or participation in the WIC Program.

State and local WIC agencies must keep MOUs available to be reviewed during site monitoring. Local WIC agencies will be asked to submit a list of current MOUs prior to site monitoring.

REFERENCE

- 7 CFR 246.26 (d)(i)
- 7 CFR 246.26 (d)(2)
- 7 CFR 246.26 (d)(4)
- 7 CFR 246.26 (h)(1)