

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2016-1012-015	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

NOV 28 2016

1:43 P.M.

2016 OCT 21 A 9 13
OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
Department of Public Health

AGENCY FILE NUMBER (if any)
DPH-07-005

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2016 15-2	PUBLICATION DATE 4/8/2016

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) WIC Participant Sanctions	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) Z2016-0321-01 per agency request TH
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 40679
TITLE(S) 17 22 per agency request TH	REPEAL

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Dawn Basciano	TELEPHONE NUMBER 916-440-7367	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 10-17-16
TYPED NAME AND TITLE OF SIGNATORY Sherrie Lowenstein, Assistant Chief Counsel	

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ENDORSED APPROVED

NOV 28 2016

Office of Administrative Law

Title 22. Social Security
Division 2. Department of Social Services -Department of Health Services
Subdivision 6. Preventive Medical Services
Chapter 6. California Special Supplemental Food Program for Women, Infants
and Children
Article 2. Certification of Participants

Amend Section 40679 as follows:

Section 40679. Actions Affecting Participation in Mid-Certification.

(a) The local agency shall disqualify an individual in the middle of a certification period for the following reasons:

(1) Through a reassessment of eligibility status, the individual is determined to no longer meet eligibility requirements. However, a participant whose nutritional risk condition has resolved shall not be disqualified mid-certification.

(2) The local agency shall disqualify a participant for a period not to exceed three months for participant abuse including, but not limited to, any of the following reported program violations by the participant or parent, guardian, caretaker, or representative of the participant:

(A) Knowing and deliberate misrepresentation of facts or circumstances which affect Program eligibility;

(B) Sale of supplemental foods or food instruments to, or exchange with, other individuals or entities;

(C) Purchase of more than the specified amount of an authorized food item(s) with food instruments;

(D) Receipt from food vendors of cash or credit toward purchase of unauthorized food or other items of value in lieu of authorized supplemental foods;

(E) Return of authorized food items purchased with WIC food instruments for cash, credit, or unauthorized items;

(F) Physical abuse, or threat of physical abuse, of WIC clinic or vendor staff;

~~(G) Behaving in a rude or abusive manner, or otherwise causing a disruption at the WIC clinic or the food vendor. The local agency shall obtain approval from the Department prior to disqualification of an individual for this reason.~~

~~(H)~~(G) Purchase of unauthorized food items with WIC food instruments;

~~(I)~~(H) Use of food instruments outside of the valid dates;

~~(J)~~(I) Any alteration of the food instrument;

~~(K)~~(J) Redemption of food instruments at any food vendor other than the one imprinted on the food instrument;

~~(L)~~(K) Theft of food instruments;

~~(M)~~(L) Dual participation;

~~(N)~~(M) Accepting WIC food instruments from anyone other than WIC staff.

(3) Fails to pick up food instruments or to keep scheduled appointments for a period of two consecutive months.

(4) If the Department experiences funding shortages, it may be necessary to discontinue Program benefits to a number of certified participants whose

nutritional and health status would be least impaired by withdrawal of Program benefits. Such action shall be taken only after the Department has explored alternative actions; the action shall be calculated to affect the least possible number of participants with the expectation of providing benefits again when funds are available. When the Department elects to discontinue benefits to a number of certified participants due to insufficient funds, local agencies shall not enroll new participants during the time period.

(b) Based on the circumstances of the particular case, local agencies may stay the effect of the three month suspension period authorized in a)(2) above with written approval from the Department.

(c) As specified in (a)(2) above and in accordance with the provisions of sections 40683 and 40757 and 7 CFR 246.23(c), participants or their parents, guardians, caretakers or representatives who have been determined to have intentionally misrepresented, concealed or withheld facts shall be required to reimburse the Department for the financial loss which resulted from improper receipt of program benefits. The financial loss is specifically limited to the value of the overissued food benefits.

(d) Local agencies shall have up to 30 days upon learning of a reported program violation to make a determination as to the validity of the violation and to notify the participant in writing. This written notification shall be sent by certified return receipt. The written notification shall include the reasons for the action, and of the right to a fair hearing to appeal the disqualification in accordance with the provisions of section 40703 of these regulations. Such notification need not be provided to persons who will be disqualified for not picking up food instruments in accordance with the provisions of

section 40679(a)(3) of these regulations. Disqualification shall not take effect until at least fifteen (15) calendar days after the participant has received the written notice.

Note: Authority Cited: ~~Sections 311 and 312~~ 123290(g)(1), 131050, 131051, and 131200, Health and Safety Code. Reference: Section 346 123290(g)(1), Health and Safety Code.