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**SECTION: CERTIFICATION**

**SUBJECT: Disqualification**

**ITEM: Criteria for Disqualification**

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## **Policy**

The LA shall disqualify a participant from the WIC program during the certification period for one or more of the reasons discussed in this policy. The disqualified participant shall be advised in writing of the date benefits will end, the reason(s) for disqualification, and the right to a fair hearing.

## **Required Procedures**

- I. LA staff shall complete and issue to the participant family upon disqualification, a *Notice of Action Affecting WIC Program Participation* (CDPH 4304). The LA staff shall hand the CDPH 4304 to the participant or mail it to the participant's last known address on file. When delivered by mail, the CDPH 4304 must be mailed certified, return receipt requested. The CDPH 4304 serves as both the written notice of disqualification and the notice of the right to a fair hearing. (Refer to WPM 520-10 for more information about fair hearing requests.)
- II. The LA shall not disqualify a participant or issue a CDPH 4304 for failure to keep a certification appointment after being informed that their certification period is about to end; program eligibility merely expires.
- III. The LA shall disqualify a participant from the WIC program during the certification period for the following reasons:
  - A. The participant is found to exceed income:
    1. If during a participant's certification period the LA is made aware of an increase in the family's income, the LA shall reassess the income eligibility of all family members. If the LA determines that the family income exceeds the maximum allowable, all family members must be disqualified using the Disqualify function in the Integrated Statewide Information System (ISIS.)
    2. A participant determined to be adjunctively income eligible at certification shall not be disqualified at mid-certification solely on the basis of a determination that she/he is no longer participating in the program that initially warranted the adjunctive eligibility determination. In such a case the LA shall reassess the family's income and make a determination, accordingly. (Refer to WPM 210-02)

- B. The participant is no longer in a category served by WIC. (Refer to WPM 210-08)
- C. The participant fails to provide proof of category. If during the certification period the participant fails to provide proof of category, the LA may disqualify the participant. For example, a woman who states she is pregnant at enrollment but does not yet have documented proof of pregnancy, is certified and then given a reasonable period of time (not to exceed 60 days) to obtain such proof. If such documentation is not provided as requested, the LA may disqualify the participant during the certification period, using the Disqualify function in ISIS.
- D. Program Violations as defined in this policy.

1. Dual Participation:

- a. The LA shall immediately (**without 15 calendar day notice**) terminate all but one record of a participant who is simultaneously participating in more than one WIC local agency or WIC site within a local agency, provided they are still eligible to receive benefits (the eligible participant chooses one LA/site from which to continue receiving WIC program benefits.)

The SA shall disqualify (**with 15 calendar days notice**) the participant from the LA/site from which they choose to continue receiving WIC program benefits (provided they are still otherwise eligible for benefits) in accordance with the sanction provisions in section III.D.1, above. The effective date of the disqualification shall be at least 15 calendar days after the issuance of the CDPH 4304.

- b. When the same individual is simultaneously participating in WIC and the Commodities Supplemental Food Program (CSFP), the LA shall immediately (**without 15 calendar days' notice**) terminate the participant from the WIC Program and follow the procedures in WPM 200-02.

If the SA determines the participant has been intentionally dually participating in both WIC and CSFP, even if the participant has already been terminated from WIC, the SA must demand restitution and possibly sanction and disqualify the participant from the WIC Program for one year. The LA will need to note such possible subsequent disqualification action in its CDPH 4304.

- c. WIC Match: Follow procedures outlined in the *ISIS Job Aids*.

2. The LA shall complete and submit the *Dual Participation/Participant Abuse Report* (CDPH 4476) to the State Agency's (SA) Program and Business Integrity Section for each program violation detected by LA staff. The LA must submit form CDPH 4476 within two business days in cases of dual participation, and within 10 business days of detecting all other instances of suspected or actual program violation. The SA must open an investigation and take appropriate action within 120 days of any reported incident. The LA must cooperate fully with the SA's investigation.

Participant sanctions for program violations:

- a. The SA may provide a warning to the participant if the SA determines there are insufficient facts to support a finding that the participant, parent, caretaker, etc., intentionally committed a program violation.
- b. The SA shall disqualify a participant for one year for any violation of physically harming or threatening to harm WIC clinic, farmer or vendor staff.
- c. The SA will assess a claim for the full value of benefits obtained or disposed of improperly for all participant violations regardless of the amount of financial loss to the Program.
- d. The SA shall disqualify a participant for one month if the violation is a first violation and results in a financial loss to the Program of less than \$100 (except dual participation as described below, or harming or threatening to harm as described above.)
- e. The SA shall disqualify a participant for one year if the violation results in financial loss to the Program of \$100 or more, or if the SA assesses a claim for a subsequent violation in any amount within three years of the previous violation, or dual participation in any amount. The SA shall not impose the mandatory disqualification if:
  - Within 30 days of receipt of the letter demanding repayment, full restitution is made or a repayment schedule is agreed upon, or
  - In the case of a participant who is an infant, child or under age 18, the SA and LA approve the designation of an alternate.

3. The SA or LA shall use the *Disqualify* function in ISIS and record any other needed information in Family Comments, e.g. ending date of the disqualification period when disqualifying an individual participant or a participant family for a program violation. Depending on the duration of the disqualification and other timing factors, the participant/participant family's record may batch out of ISIS and require re-enrollment upon return of the participant. Use Disqualify Code 09 "Dual Participation", on the ISIS Disqualify Individual screen to ensure accurate reporting and accountability to the United States Department of Agriculture (USDA).
- E. The participant is not in a priority currently served by WIC due to a program funding shortage. (WPM 230-10). As a last resort and following a complete exploration of alternative actions, the State Agency may discontinue providing program benefits to a number of participants if it experiences a funding shortage. When this occurs, the following procedures apply:
1. Discontinuation of program benefits shall be applied to a number of participants of lowest priority using the WIC priority ranking system.
  2. Participants disqualified for this reason shall be placed on a waiting list by the LA. (WPM 230-20)
  3. Program benefits may resume once the SA notifies the LA that additional priorities may be served.
    - a. If notification to resume benefits is received from the SA before the participant's certification period expires, LA staff resumes issuance of FIs according to normal FI issuance procedures. **Retroactive FIs shall not be issued.**
    - b. If notification to resume benefits is received from the SA after the participant's certification period expires, LA staff shall not issue FIs. The individual is required to reapply as a new applicant to receive WIC benefits.
- IV. The effective date of disqualification must be after the "Last Day to Use" on existing FIs for the disqualification to have any practical effect. The LA shall implement the following procedures to disqualify a participant for a program violation or when the participant no longer meets WIC program eligibility requirements during the certification period:
- A. If fifteen days or more remain before the participant's current FIs expire (before the last day of use):
1. Do NOT issue FIs,

2. Complete and issue form CDPH 4304 effective the day after the “Last Day To Use” of the existing FIs, and
  3. Use the Disqualify function in ISIS.
- B. If fewer than 15 days remain before the participant’s current FIs expire (before the Last Day to Use):
1. Issue no more than one month of FIs,
  2. Complete and issue form CDPH 4304 effective the day after the “Last Day To Use” of the newly issued FIs, and
  3. Use the Disqualify function in ISIS.
- V. The LA shall allow a disqualified participant the opportunity to reapply for program benefits.
- A. A participant disqualified from the program because they no longer meet the program eligibility criteria may reapply as a new applicant when their circumstances change.
1. No waiting period is required if LA caseload is available and the applicant is able to provide additional information regarding their eligibility status.
  2. The individual shall be placed on a waiting list if at the time of reapplication for program benefits the LA is participating at maximum caseload and is not serving the person’s priority.
- B. A participant disqualified due to a violation of program rules may reapply for benefits following the end of the disqualification period.
1. It is the individual’s responsibility to contact the LA for an appointment following expiration of the disqualification period.
  2. Because the disqualification action will have ended or shortened the person’s certification period, they must reapply as a new applicant to receive program benefits.

## Definitions:

**Disqualification** – The act of ending the program participation of a participant during a certification period.

**Dual Participation** – When a participant is receiving WIC benefits from more than one WIC location or who is receiving benefits from WIC and the Commodities Supplemental Food Program (CSFP), simultaneously.

**Participant** – A pregnant, breastfeeding and postpartum woman, infants and children under five years of age who are receiving supplemental foods, food instruments (FIs) under the Program and the breastfed infant of a participant breastfeeding woman.

**Program Violation** – In addition to dual participation, any of the following actions intentionally committed by the participant, alternate, proxy, parent, caretaker, or other legal representative of the participant:

1. Making false or misleading statements or misrepresenting, concealing or withholding facts to obtain program benefits including but not limited to:
  - a. Failing to report correct income during a certification period;
  - b. Failing to report members of the household and/or their income during the certification period; or
  - c. Not residing at the residence claimed during the certification period.
2. Exchanging FIs or supplemental foods purchased with WIC FIs for cash, credit, non-food items, or unauthorized food items;
3. Making a verbal offer of sale to another individual or posting WIC foods, benefits and/or EBT cards for sale in print or online, or allowing someone else to do so;
4. Exchanging FIs for more than the specified amount of supplemental foods listed on the FIs;
5. Physically harming, or threatening to harm WIC program, farmers' market, or food vendor staff;
6. Stealing FIs;
7. Redeeming more than the number of FIs for which the participant is eligible;
8. Altering FIs; or

9. Redeeming FIs at an unauthorized food vendor.

## **Authority**

7 CFR 246.7 (c) (1), (d) (2), (e), (f) (1), (h), (j) (5 through 9), (l) (1), and (p)

7 CFR 246.9 (c); (e); (g)

7 CFR 246.12 (u)

7CFR 246.23(c) (1)

22 CCR 40611; 40625; 40627; 40679; 40681; and 40683

WIC Policy Memorandum 2012-1 (February 10, 2012)