

Section 1.13: Fair Hearing Procedures

01/2018

References: 7CFR 246.6; Minnesota Rules, Section 4617.0100

Policy: An applicant/participant must be provided the opportunity to appeal decisions if they are:

- determined ineligible
- suspended or disqualified from the WIC program
- asked to repay the value of improperly issued benefits

Purpose: To ensure that all applicants and participants receive fair and equitable treatment.

Procedures

Eligible/Ineligible

1. Inform each **eligible** adult applicant, parent, or guardian of their Rights & Responsibilities at certification, by providing the Rights & Responsibilities form ([Exhibit 1-K](#)) for them to read and capture signature on signature pad. If an applicant is unable to read, a staff person should read the information to them.
2. If an applicant is determined to be **ineligible** at WIC clinic, tell them the reason they are not eligible and of their right to appeal this decision, by providing a letter of ineligibility ([Exhibit 5-GG](#)).
3. If the applicant disagrees with the determination of ineligibility and wishes to appeal the decision, they may request a fair hearing verbally or in writing.
 - If the participant wishes to submit a written appeal, provide the Request for Fair Hearing Form ([Exhibit 1-N](#)) and assist them as needed. The applicant may send the form to the state or ask the local agency to send it.
 - If the participant wishes to submit a verbal appeal, collect the information using the Request for Fair Hearing form and contact the State Office as soon as possible.
4. Confer with state staff and schedule a prehearing meeting with the person requesting the fair hearing, a representative of the local agency and state staff, if appropriate. The purpose of the meeting would be to resolve the issue.
5. If agreement is not reached at a prehearing meeting, the state will schedule a hearing at a time and location agreeable to the appellant.

SECTION 1.13: FAIR HEARING PROCEDURES

6. If in the Fair Hearing process the applicant alleges discrimination, finish the Fair Hearing process and advise the applicant of their right to file a complaint with United States Department of Agriculture (USDA). Refer to [Section 1.10](#) Civil Rights.

Suspension/disqualification or Repayment

Any actions regarding suspension/disqualification or repayment are the responsibility of the State Office. Your State Consultant or Compliance Officer will work with you on these actions.

Denial/Dismissal of Request

The request for a fair hearing may be denied or dismissed if:

1. The request is not received within the 60-day time limit
2. The request is withdrawn by the person requesting the hearing
3. The person requesting the hearing fails, without good cause, to appear at the scheduled hearing

Continuation of Benefits

A participant who is disqualified during a certification period and who requests a fair hearing within 15 days of the notification shall continue to receive program benefits until a hearing decision is reached or the certification interval ends, whichever occurs first. A request made after the 15-day limit shall not result in continued benefits.

An applicant who is denied benefits at initial certification or at a subsequent certification may request a fair hearing but shall not receive benefits while awaiting the hearing.

Guidance

Staff must assist the applicant/participant in this process as needed.

The applicant/participant must be provided translated materials and access to an interpreter if needed.

Examples of decisions that cannot be appealed are:

- A determination of categorical ineligibility
- Termination due to expiration of certification period
- A decision by the CPA to provide a person less than the maximum amount of supplemental foods
- A decision by the CPA to provide food benefits monthly, bimonthly, or trimonthly

Reference – Complete Listing of Hyperlinks

Exhibit 1-K: Rights and Responsibilities

(<https://www.health.state.mn.us/people/wic/rights.html>)

Exhibit 5-GG: Sample Letter of Ineligibility

(<http://www.health.state.mn.us/docs/people/wic/localagency/program/mom/exhbts/exf/5gg.doc>)

Exhibit 1-N: Request for a Fair Hearing

(<https://www.health.state.mn.us/docs/people/wic/localagency/program/mom/exhbts/ex1/1n.pdf>)

Section 1.10: Civil Rights

(https://www.health.state.mn.us/docs/people/wic/localagency/program/mom/chsctns/ch1/sctn1_10.pdf)

Minnesota Department of Health - WIC Program 625 Robert St N, PO BOX 64975, ST PAUL MN 55164-0975; 1-800-657-3942, health.wic@state.mn.us, www.health.state.mn.us. To obtain this information in a different format, call: 1-800-657-3942