

## Participant Violations

- I. The local agency must impose sanctions in response to participant violations. Participant sanctions may include up to a one year disqualification from the Program.
- II. Participant violations include:
  - a. Allowing an unauthorized person to use the card and PIN number (person not listed as a guardian/proxy in the VISION system).
  - b. Redemption for unauthorized food items or items not issued to the family.
  - c. Verbal abuse and/or threatening to harm or physically harming clinic or vendor staff.
  - d. Exchange of a e-WIC card or supplemental foods for cash, credit, or non-food items.
  - e. Selling or offering to sell; giving away or offering to give away; or trading WIC e-WIC cards or supplemental foods to anyone other than the individual(s) for which they were issued.
  - f. Intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain benefits. This includes but is not limited to:
    - i. Failure to properly report household size and income.
    - ii. Failure to inform clinic staff of an increase of household income above eligibility guidelines before additional benefits are issued.
    - iii. Failure to inform clinic staff of the discontinuance of breastfeeding before additional benefits are issued.
  - g. Dual participation. (Participant intentionally received & redeemed WIC benefits from two different clinics in the same month or posed as a different participant to receive multiple benefits.
- III. Methods of Detecting Participant Violations:
  - a. Improper redemption reported by the State Agency.
  - b. Complaints from vendors.
  - c. Complaints from participants.
  - d. Complaints from other individuals or agencies.
  - e. Investigations.

- f. Dual participation reports.
  - g. Participant admits wrong doing/violation during WIC clinic visit, and/or investigation of improper redemption.
- IV. Participant violation types and corresponding sanctions are found on the following table:

**PARTICIPANT VIOLATIONS AND SANCTIONS**

<b>PARTICIPANT VIOLATION</b>	<b>SANCTION FIRST OFFENSE</b>	<b>SANCTION REPEATED OFFENSES (within one year)</b>
1) Allowing an unauthorized person to use the card and PIN number (Person not listed as a guardian/proxy in the VISION system).	<u>WARNING</u> documented in the Participant Violations screen (Required Counseling).	<u>SUSPENSION</u> of one (1) month of benefits.
2) Redemption for unauthorized food items or items not issued to the family.	<u>WARNING</u> documented in the Participant Violations screen (Required Counseling).	<u>SUSPENSION</u> of one (1) month of benefits.
3) Directed verbal abuse and/or threatening to harm or physically harming clinic or vendor staff.	<u>WARNING</u> documented in the Participant Violations screen (Required Counseling).	<u>SUSPENSION</u> of one (1) month of benefits.
4) Exchanged a EBT card or supplemental foods for cash, credit, or non-food items.	<u>SUSPENSION</u> of one (1) month of benefits OR repayment of benefits if the claim is <\$100. (If \$100 or more, see #13) <sup>(2)</sup>	<u>SUSPENSION</u> of three (3) months of benefits OR repayment of benefits <sup>(2)</sup>
5) Sold or offered to sell; gave away or offered to give away; or traded an e-WIC card or supplemental foods to anyone other than the individual(s) for which they were issued.	<u>SUSPENSION</u> of one (1) month of benefits OR repayment of benefits if the claim is <\$100. (If \$100 or more, see #13) <sup>(2)</sup>	<u>SUSPENSION</u> of three (3) months of benefits OR repayment of benefits <sup>(2)</sup> (if \$100 or more, see #13)
6) Intentionally made false or misleading statements or intentionally misrepresented, concealed, or withheld facts to obtain benefits.	<u>SUSPENSION</u> of three (3) months of benefits or repayment of benefits <sup>(2)</sup> and <u>TERMINATION</u> from the WIC Program if determined to be over income.	<u>DISQUALIFICATION</u> of one (1) Year based on second OR subsequent repayment of benefits <sup>(1)</sup> <sup>(2)</sup>

<b>PARTICIPANT VIOLATION</b>	<b>SANCTION FIRST OFFENSE</b>	<b>SANCTION REPEATED OFFENSES (within one year)</b>
7) Dual participation. (Participant intentionally received & redeemed WIC benefits from two different clinics in the same month or posed as a different participant to receive multiple benefits.	<u>DISQUALIFICATION</u> of one (1) Year OR repayment of benefits <sup>(1)</sup> <sup>(2)</sup>	<u>DISQUALIFICATION</u> of one (1) Year OR repayment of benefits <sup>(1)</sup> <sup>(2)</sup>
<b>VIOLATION ENHANCEMENTS</b>	<b>SANCTION FIRST OFFENSE</b>	<b>SANCTION REPEATED OFFENSES (within one year)</b>
8) Assessment of a claim of \$100 or more for any violation	<u>DISQUALIFICATION</u> of one (1) Year OR repayment of benefits; <sup>(1)</sup> <sup>(2)</sup>	<u>DISQUALIFICATION</u> of one (1) Year OR repayment of benefits <sup>(1)</sup> <sup>(2)</sup>
9) Subsequent claim of any amount.	<u>DISQUALIFICATION</u> of one (1) Year OR repayment of benefits; <sup>(1)</sup> <sup>(2)</sup>	<u>DISQUALIFICATION</u> of one (1) Year OR repayment of benefits <sup>(1)</sup> <sup>(2)</sup>

<sup>(1)</sup> See exceptions to mandatory disqualification

<sup>(2)</sup> Repayment required if a quantitative value of the violation can be determined

- V. Participant violation documentation, counseling and sanctioning is handled by trained local agency staff using the following guidelines:
- a. The State WIC Office will notify appropriate clinic staff via email of participant violations detected by the state. These violations may be found through:
    - i. a review of redemption records,
    - ii. a state investigation,
    - iii. vendor complaints,
    - iv. any other complaint made to the state.
  - b. Documentation regarding the violation will be uploaded to VISION, posted to SharePoint or sent to the clinic via email.
  - c. State office staff will input a violation into the VISION system under the participant's record.
    - i. The "Do not allow food benefits" check box in the Participant Violations screen will be marked (locking out food issuance) indicating that the participant must be counseled PRIOR to food issuance. This automatically places an alert in the Family Alerts and in the Food Benefits Alerts.
  - d. If clinic staff becomes aware of a participant violation that is not reported by the State WIC Office, clinic staff must input the violation into the participant's record in VISION.
    - i. Input the violation date.
    - ii. Select the violation type from the drop down list.
    - iii. Enter any details or comments about the alleged violation.
    - iv. Scan any documentation or written complaint into the family record.
    - v. Mark the "Do not allow food benefits" check box (locking out food issuance) indicating that the participant must be counseled PRIOR to food issuance.
  - e. The Participant Violations and Sanctions ad hoc report should be used to track participant violations within the clinic. This report shows all violations and sanctions that have been entered within the date range selected.
  - f. Once clinic staff becomes aware of an alleged participant violation, clinic staff has 10 days to contact the participant regarding the violation.
    - i. If the participant cannot be reached by telephone a letter must be sent. All attempted contacts with the participant, phone calls or letters, should be documented in the comment section.
    - ii. If the clinic is not able to contact the participant to discuss the violation after three or more telephone attempts and by using all other available methods including mail and email, and the client is

no longer participating in WIC, the sanction type "Cannot reach, no longer participating" should be entered in the sanction box. Leave the "Do not allow food benefits" box checked.

- iii. If the client later returns to the program the violation can be discussed. If less time has passed than the suspension period (one month if the client owes the program less than \$100, one year if the client owes the program more than \$100) the suspension time must be implemented unless payment is made.
- g. Clinic staff is not permitted to divulge where the complaint originated. The identity of every complainant shall be kept confidential. The WIC client is simply informed that the clinic has received a complaint.
- h. If the sanction for the particular violation will involve only a warning, the violation can be discussed and the warning given over the telephone.
- i. If the sanction may result in a repayment of benefits, suspension or disqualification, the client must be requested to come to the clinic within 30 days to discuss the alleged violation. The participant should be told that the meeting concerns an alleged violation and to bring their e-WIC card with them to the counseling appointment.
  - i. Staff may use their discretion to decide how much of the situation to discuss over the phone. It may be beneficial to ease the fears of the participant before meeting with them about the violation in person.
  - ii. If the participant does not attend the appointment, the comment screen will be documented and another appointment should be scheduled within the next thirty (30) days.
  - iii. It is recommended that clinic supervisory staff handle these types of violations when possible. State staff would like to be involved in participant violation counseling that involves a sanction of repayment of benefits, suspension or disqualification.
    - 1. State staff will be available to participate in the meeting with the participant and clinic staff via telephone in most cases.
    - 2. When possible, clinic staff should call or notify the State WIC Program Manager or a designee at least 24 hours prior to a scheduled meeting with the participant in order to discuss the case and prepare for the meeting.
    - 3. The purpose of state involvement in the violation counseling in these cases is to help prevent the client from getting upset with local agency staff while also ensuring that program integrity is maintained by imposing appropriate sanctions for these violations.
- j. At the client's next appointment or at the special counseling appointment,

- i. Clinic staff enters the appropriate sanction type in the Sanctions box.
  - ii. For violations requiring either a repayment of benefits or suspension, select the sanction that the client chooses.
    1. If the client initially chose a repayment but failed to make payment, an additional sanction of suspension or disqualification must later be added.
  - iii. If a repayment of benefits is being requested, mark the Claim Requested check box. Enter the amount of the claim into comments box.
  - iv. The start date and the end date of the sanction are selected. For a warning, the start date and the end date are the same date (today's date). For any other sanction type, the start date is today's date and the end date must be selected (such as 30 days into the future, the end of the next month etc.).
  - v. Select and print the notice of Program Violation or in the case of a disqualification (termination from the program, not suspension), print the Notice of Disqualification.
    1. For the date range within the Printing Options box, the start date must be set at or before the violation date, and the end date is today's date (cannot be a future date).
    2. Ensure that the violation and sanction printed properly and give the printed notice to the client.
  - vi. Obtain a signature from the client using the electronic signature pad. The signature indicates understanding of the violation and sanction that was discussed.
  - vii. Upon completion of these steps, staff may uncheck the "Do not allow food benefits box" if it is appropriate for the client to continue to receive food benefits at that time.
  - viii. Do not delete the participant violation from the participant's record.
- k. If it is determined that no violation occurred or if there is a lack of evidence to determine that a violation occurred, the client should not be sanctioned. In the sanctions box in VISION, select "No violation, no sanction". The client will not be required to sign the signature pad and the printed Notice of Program Violation does not need to be given to the client.

## VI. Corrective Actions

- a. Sanctions can be assessed in the following certification period if the WIC participant was not counseled or corrective action taken during the certification period of the alleged violation.
- b. Disqualification.
  - i. Whenever the local agency assesses a claim of \$100 or more, assesses a claim for dual participation, or assesses a second or

subsequent claim of any amount, the local agency must disqualify the participant for one year.

- ii. Referral to law enforcement authorities. When appropriate, the State or local agency must refer participants who violate program requirements to Federal, State, or local authorities for prosecution under applicable statutes. If the local agency becomes aware of any illegal activity when investigating a complaint or when dealing with participant violation, the local agency will contact their department attorney.
  - iii. Terminating a mandatory disqualification. The local agency may permit a participant to reapply for the Program before the end of a mandatory disqualification period if full restitution is made or a repayment schedule is agreed upon between the State Agency and the WIC participant.
  - iv. Exceptions to mandatory disqualification. The local agency may decide not to impose a mandatory disqualification if, within thirty (30) days of receipt of the letter requesting payment, full restitution is made or a repayment schedule is agreed on between the State Agency and the WIC Participant. (See *Claims against participants* below.)
- c. Suspension of Program Benefits for violations not requiring a mandatory disqualification. A participant may have WIC Program benefits suspended for a period of one (1) to three (3) months in accordance with the Participant Violations and Sanctions table (above).
- i. If full restitution is made within 30 days of a request for repayment of benefits, a suspension may not be required. (See *Claims against participants* below.)
- d. Warning. For first offenses of violations not requiring mandatory disqualification, suspension, or a request for repayment of benefits, a warning may be given.

VII. Proxy designation in lieu of suspension or disqualification. In the case of a participant who is an infant, child, or under age eighteen (18), the participant may be allowed to continue in the Program if the state and local agency approves the designation of a responsible person as a proxy or additional guardian and documents this designation in the Participant Violations screen.

- a. WIC benefits may only be issued to the approved proxy/additional guardian during the time frame that the disqualification or suspension would have been in place.
- b. Permission must be granted by the State Agency to assign a proxy/additional guardian in lieu of a suspension or disqualification.



- c. The state does not normally approve a new proxy/additional guardian in order to avoid a sanction unless it is determined that the guardian who committed the violation is not a responsible person and the infant/child would not be able to receive proper nutrition if the sanction was imposed.
- VIII. Time frame for Repeated Offenses. The time frame that the first offense is counted toward a second or subsequent offense of the same violation is one year. The guardian/participant must be counseled regarding the first offense before an additional sanction can be assigned for a repeated offense. All violations within the family within the last year will be considered when determining the number of offenses. When a specific violation affects the benefits of multiple family members at the same time, this is considered to be a single violation.
- IX. Notification. At the time the local agency notifies a participant of a suspension/disqualification, the local agency must advise the participant of the procedures to follow to obtain a fair hearing. Prior to disqualification, the participant must be given fifteen (15) days notice of the action to be taken against them. The Notice of Program Violation or Notice of Disqualification will serve as the notice if given fifteen (15) days prior to action taken.
- X. Claims against participants. If the local agency determines that program benefits have been obtained or disposed of improperly as defined under participant violations, the local agency must establish a claim against the participant for the full value of such benefits. [See Federal regulation 246.23(c)]
  - a. For all claims, the local agency must issue a demand letter requiring repayment of benefits (Repayment of Benefits Letter). If full restitution is not made to the State agency, or a repayment schedule is not agreed upon with the State WIC Office and the first scheduled payment is not received within thirty (30) days of receipt date of the Repayment of Benefits letter, a sanction of suspension or disqualification must be imposed by the local agency in accordance to program violation procedures. The WIC client is not permitted to avoid suspension or disqualification if the claim is paid after the thirty (30) days has expired.
  - b. If the claim is not paid, the state agency may take additional collection actions until restitution is made or a repayment schedule is agreed on, unless the state agency determines that further collection actions would not be cost-effective.
  - c. In order to establish a claim or collection, issue the Repayment of Benefits Letter requesting payment.
    - i. The Repayment of Benefits letter is a preprinted state form with an original and four (4) copies.
    - ii. One copy will be scanned into the VISION system.

- iii. One copy will be sent to the State WIC Agency, Budget Coordinator,
  - iv. Two (2) copies will be given to the participant.
  - v. The WIC client will be instructed to send one copy of the Repayment of Benefits Letter along with the payment by check or money order to the State WIC Agency using the address printed on the letter.
- d. If the WIC client wishes to establish a repayment schedule:
- i. The client must agree to make payments prior to the end of the thirty (30) day repayment period. The WIC client cannot setup a repayment of benefits schedule after the thirty (30) days has expired.
  - ii. The first payment must be received within the initial 30 days.
  - iii. The local clinic may arrange the terms of the repayment and include the details on the Repayment of Benefits Letter, or may require the client to contact the state budget coordinator directly to arrange the terms.
  - iv. The WIC client may choose to divide the total repayment owed into up to 12 monthly payments. If a longer term is necessary, this must be approved by the state program manager.
- e. The local agency staff will not perform any transaction with the participant, pay the claim for the participant in whole or in part, nor collect any repayment of benefits at the local clinic.
- f. The WIC client who has been issued a Repayment of Benefits Letter can only receive thirty (30) days of benefits until repayment has been received. If additional months of benefits have already been issued to the client, then the clinic must request the WIC client to return the additional benefits greater than thirty (30) days from the date the repayment of benefits letter was issued. Clients with a payment plan agreed upon may continue to receive benefits on a month to month basis as long as the payments are current.
- g. The State agency must document the disposition of all participant claims.
- h. Before further WIC benefits can be issued, the clinic must have received confirmation from the state that a payment has been received. If no payment has been received by (30) days of the repayment notification, no benefits can be issued.
- i. State staff will enter documentation of received payments directly in the applicable participant violations record within VISION in the comments box.

- ii. If there is any question from clinic staff regarding payment status, contact the State WIC Office receptionist.
    - iii. The WIC client should be instructed to contact the State WIC Office directly regarding whether a payment has been received.
  - i. Procedures for calculation of claims.
    - i. Determine how long the inappropriate benefits were issued.
    - ii. Calculate the total dollar amount of food redemption for the length of time involved.
    - iii. In the case of foods or formula offered for sale or to be given away:
      - 1. Determine the vendor used most recently prior to the placement of the ad or other offer to sell or give away foods.
      - 2. Determine the price paid for the formula/food based on the redemption amount.
      - 3. Returning the food or formula in question to the clinic will also be acceptable in lieu of repayment.
- XI. Applicants or participants who would like to appeal a decision made by the local agency may request an informal Agency Conference or a may request a Fair Hearing. Appellants may be encouraged to attempt to settle the dispute in an Agency Conference before requesting a Fair Hearing. See *Appeals* for more information.