

Fair Hearing Procedures**Policy No. CT- 860.04**

Effective Date: October 1, 2016

No. of Pages: 3

Policy

Local agencies shall refer to the State WIC Office any individual who wishes to appeal or contest an adverse action and request a fair hearing that results in the individual's denial of participation, disqualification, suspension, or termination from the program. A request for a fair hearing may be made verbally, or in writing. If a request for a fair hearing is postmarked after the 15th day, WIC benefits will not continue.

The local agency must not limit or interfere with the freedom of a WIC applicant/participant to request a fair hearing.

Purpose

To ensure that any individual may appeal an adverse action that results in the individual's denial of participation, or the individual's removal (e.g., disqualification) from the Georgia WIC Program.

Procedures

- I. Assist an individual when he/she wishes to submit a request for a fair hearing to the State WIC Office.
- II. Accept a fair hearing request from the applicant/participant or the applicant's/participant's parent, caretaker, or other representative.
- III. Complete the Georgia WIC Record Summary Form when a verbal request for a fair hearing is received.
- IV. Send to the State WIC Office all written requests from individuals seeking a fair hearing within three (3) business days of the request being made or before the expiration of the 60-day period to:
Department of Public Health Georgia WIC Program
Office of Program Integrity & Strategy
RE: WIC Participant Request for Fair Hearing
Two Peachtree Street, 10th Floor
Atlanta, Georgia 30303
- V. Ensure requests for fair hearing sent to the State WIC Office are postmarked within sixty (60) days from the date the adverse action notice was sent or given to an applicant or participant.
- VI. Continue Issuance of Benefits during an Appeal

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- A. Ensure participants whose benefits are terminated during a certification period and who submit a request for a fair hearing **within fifteen (15) days from the date of the adverse notice**, continues to receive WIC benefits until a hearing decision is reached or the certification period expires, whichever occurs first.
 - B. Ensure applicants who are denied benefits cannot receive benefits while awaiting appeal decision.
- VII. Assist the State WIC Office to make participant documents and records available to the individual requesting the fair hearing or his/her designated representative, prior to the fair hearing.
- VIII. Review the notification from the State Office to the local agency of the fair hearing decision within 45 days of the hearing decision being issued.
- A. If the decision received is in favor of the participant, WIC benefits will continue or begin immediately.
 - B. If the decision received is in favor of the applicant, WIC benefits will begin immediately.
 - C. If the decision received is in favor of the State WIC Office or local agency, the local agency must terminate any continued benefits as soon as administratively feasible.
- IX. Ensure a request for a fair hearing is not denied or dismissed unless:
- A. The request for hearing is not timely received within the sixty (60) day time limit.
 - B. The request is withdrawn in writing by the appellant or a representative.
 - C. The appellant or representative fails, without good cause, to appear at the scheduled hearing.
 - D. The appellant has been denied WIC participation by a previous hearing and cannot provide evidence that circumstances relevant to WIC eligibility have changed in such a way as to justify a hearing. (See [Appellant's Georgia WIC Program Record Summary](#) for Timeframes).
- X. Provide the following guidelines to the participant regarding the fair hearing process:
- A. After a fair hearing request is submitted, the applicant/participant will receive notifications pertaining to the hearing from the Office of State Administrative Hearings

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(“OSAH”).

- B. A fair hearing is typically scheduled by OSAH within three weeks from the date the fair hearing request is received by the State WIC Office.
- C. The convenience of the applicant/participant shall be of prime consideration in the selection of the time and place of the hearing.
- D. An impartial hearing official, in most cases an OSAH Judge, who did not participate in making the decision being appealed will be designated.
- E. The applicant/participant appealing the adverse decision may be represented by an attorney or other person who will have an opportunity to examine, prior to or during the hearing, the documents and records presented in support of the decision under appeal.
- F. During the hearing, the applicant/participant or his/her designated representative will have an opportunity to question or refute any testimony or other evidence and to confront and cross-examine any witnesses.
- G. The decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing

Authority

7 CFR § 246.9(d) – (g), (j), and (k)

7 CFR § 246.26(d)(5)

Definitions/Supporting Information

Adverse Action – means an action taken by a State or local agency in response to an applicant’s ineligibility to receive WIC benefits, or a participant’s commission of a programmatic violation.

Appeal - Review of an agency decision by a neutral third party.

The Georgia Office of State Administrative Hearings (OSAH) – is responsible for the conducting administrative hearings in contested matters between the State Agencies and the public in accordance with the Georgia Administrative Procedures Act, O.C.G.A. § 50-13-1, et. seq.,