# ADMINISTRATIVE REVIEW AND APPEAL PROCEDURES

A vendor may appeal certain adverse action(s) imposed by Georgia WIC. Adverse actions a vendor may appeal, as well as Georgia WIC's administrative review procedures are detailed below. Vendors are required to adhere to these procedures if requesting review of an adverse action.

After a vendor requests an appeal, Georgia WIC will issue a written decision, including the basis for it, within ninety (90) days of the date of receipt of the vendor's request. This timeframe is an administrative timeframe only – it does not provide a basis for overturning an adverse action by Georgia WIC if a decision is not made within the specified timeframe.

If reimbursement is owed to Georgia WIC by the vendor as a result of the adverse action being affirmed after administrative review, neither the vendor nor its affiliates shall be eligible to participate as an authorized WIC vendor until the reimbursement is paid in full. The vendor may not circumvent reimbursement by selling or otherwise making any changes or amendments to its corporate structure that was in place since the time of its initial authorization.

## Procedures for Vendor Administrative Review, Hearings and Appeals

**(1) Effective Date of Adverse Actions** Unless a later date is specified in the notice of adverse action against a vendor by the State agency, all adverse actions (except denials of vendor authorization and permanent disqualifications which are effective on the date of receipt of the notice) shall be effective fifteen days after the date of the notice of the adverse action. All adverse actions shall remain in effect during the administrative appeal process.

**(2) Full Administrative Review**

(a) The following adverse actions shall be subject to full administrative review upon timely request by the vendor:

(i) denial of authorization based on the application of the vendor selection criteria for minimum variety and quantity of authorized supplemental foods, or on a determination that the vendor is operating a store sold by its previous owner in an attempt to circumvent a sanction, as stated in 7 C.F.R. § 246.12(g)(7);

(ii) termination of an agreement for cause;

(iii) disqualification; and

(iv) imposition of a fine or a civil money penalty in lieu of disqualification.

(b) These procedures shall be followed in cases meriting full administrative review:

(i) The State agency shall give written notice to the vendor of the adverse action, the procedures to follow to obtain full administrative review, the causes for and the effective date of the action. When a vendor is disqualified due in whole or in part for any of the violations listed in 7 C.F.R § 246.12(l)(1), the notice shall include the

following statement: "This disqualification from WIC may result in disqualification as a retailer in SNAP. Such disqualification is not subject to administrative or judicial review under SNAP."

(ii) A vendor seeking review must send a written request for review to the Commissioner of the State agency within fifteen days from the date of the notice of adverse action, with a copy of the decision to be reviewed and any documents, argument, or information that the vendor contends would justify reversal;

(iii) Upon receiving a timely request for review, the Commissioner shall refer the case to the Office of State Administrative Hearings (OSAH) for initial decision.

(iv) The hearing before OSAH shall be conducted in accordance with the Georgia Administrative Procedures Act and the rules of OSAH. In addition, the Administrative Law Judge (ALJ) shall ensure that the vendor is given:

(A) Adequate advance notice of the time and place of the administrative review to provide all parties involved sufficient time to prepare for the review;

(B) The opportunity to present its case and at least one opportunity to reschedule the administrative review date upon specific request;

(C) The opportunity to cross-examine adverse witnesses. When necessary to protect the identity of WIC Program investigators, such examination may be conducted behind a protective screen or other device to conceal the investigator's face and body;

(D) The opportunity to be represented by counsel; and

(E) The opportunity to examine prior to the hearing the evidence upon which the State agency's action is based.

(v) The ALJ's determination shall be based solely on whether the State agency has correctly applied Federal and State statutes, regulations, policies, and procedures governing the WIC Program, according to the evidence presented at the review.

(vi) The Commissioner shall appoint an attorney from the Office of General Counsel as a reviewing official to review the ALJ's initial decision at the request of either party within ten days of the date of the ALJ's initial decision, to ensure that it conforms to approved policies and procedures, and to render the final agency decision in accordance with O.C.G.A. § 50-13-41. If neither party requests that the ALJ's decision be reviewed, then the ALJ's decision shall become the final agency decision thirty days after it was entered.

(vii) When the ALJ's decision is reviewed at the request of either party, the reviewing official shall provide written notification of the final agency decision, including the basis for the decision, and the vendor's right to seek judicial review pursuant to O.C.G.A. § 50-13-19, within the time period prescribed by O.C.G.A. § 50-13-41. If the adverse action under review has not already taken effect, the review official's decision shall be effective on the date of receipt by the vendor.

**(3) Abbreviated Administrative Review**

(a) The following adverse actions shall be subject to abbreviated administrative review upon timely request by the vendor:

(i) denial of authorization based on the vendor selection criteria for business integrity or for a current SNAP disqualification or civil money penalty for hardship;

(ii) denial of authorization based on the application of the vendor selection criteria for competitive price;

(iii) the application of the State agency's vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;

(iv) denial of authorization based on a State agency-established vendor selection criterion if the basis of the denial is a WIC vendor sanction or a SNAP withdrawal of authorization or disqualification;

(v) denial of authorization based on the State agency's vendor limiting criteria;

(vi) denial of authorization because a vendor submitted its application outside the timeframes during which applications are being accepted and processed as established by the State agency;

(vii) termination of an agreement because of a change in ownership or location or cessation of operations;

(viii) disqualification based on a trafficking conviction;

(ix) disqualification based on the imposition of a SNAP civil money penalty for hardship;

(x) disqualification or a civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC State agency;

(xi) a civil money penalty imposed in lieu of disqualification based on a SNAP disqualification; and

(xii) denial of an application based on a determination of whether an applicant vendor is currently authorized by SNAP.

(b) These procedures shall be followed in cases meriting abbreviated administrative review:

(i) The State agency shall give written notice to the vendor of the adverse action, the procedures to follow to obtain an abbreviated administrative review, the causes for and the effective date of the action;

(ii) A vendor seeking review must send a written request for review to the Commissioner of the State agency within fifteen days from the date of the notice of adverse action, with a copy of the decision to be reviewed and any documents, argument, or information that the vendor contends would justify reversal;

(iii) Upon receiving a timely request for review, the Commissioner shall appoint a decision-maker who is someone other than the person who rendered the initial decision on the action to review the information provided to the vendor concerning the causes for the adverse action and the vendor's response, and to make a determination based solely on whether the State agency has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program;

(iv) The decision-maker shall provide written notification of the final agency decision, including the basis for the decision, and the vendor's right to seek judicial review pursuant to O.C.G.A. § 50-13-19, within 90 days of the date of receipt of the request for an administrative review. If the adverse action under review has not already taken effect, the decision-maker's ruling shall be effective on the date of receipt by the vendor.

**(4) Actions not Subject to Administrative Review**

The following adverse actions are not subject to administrative review:

(a) The validity or appropriateness of the State agency's vendor limiting criteria or vendor selection criteria for minimum variety and quantity of supplemental foods, business integrity, and current SNAP disqualification or civil money penalty for hardship;

(b) The validity or appropriateness of the State agency's selection criteria for competitive price, including, but not limited to, vendor criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;

(c) The validity or appropriateness of the State agency's participant access criteria and the State agency's participant access determinations;

(d) The State agency's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list required pursuant to §246.12(g)(11);

(e) The validity or appropriateness of the State agency's prohibition of incentive items and the State agency's denial of an above-50-percent vendor's request to provide an incentive item to customers pursuant to §246.12(h)(8);

(f) The State agency's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction, pursuant to §246.12(l)(3);

(g) The State agency's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;

(h) Denial of authorization if the State agency's vendor authorization is subject to the procurement procedures applicable to the State agency;

(i) The expiration of a vendor's agreement;

(j) Disputes regarding food instrument or cash-value voucher payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error, as permitted by §246.12(k)(3); and

(k) Disqualification of a vendor as a result of disqualification from SNAP.

## Non-discrimination

Authorized Retail Store locations must offer WIC Participants the same courtesies as those offered to other customers, e.g., no separate lines or hours. Any practice that singles out Participants from other customers is prohibited. Such practices include:

- keeping lists of Participants,
- having Participants sign cash register receipts,
- having specific register lines Participants must use,
- keeping folders for each Participant,
- keeping Participants' receipts, and
- the offering or denial of incentives solely to WIC participants (based on 7 CFR 246.12(h)(3)(iii) and WIC Policy Memorandum 2012-3, Vendor Incentive Items).

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the Georgia WIC Program and all authorized Retailers are prohibited from discriminating based on race, color, national origin, sex, disability, age or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov.

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## WHERE TO GET MORE INFORMATION

Georgia WIC has a vendor customer service hotline (toll free in Georgia) available to assist Georgia WIC vendors with any aspect of the WIC Program. The hotline is available Monday through Friday, except State holidays, from 8:00 AM – 5:00 PM Eastern Standard Time (EST). After 5:00 PM and during periods of high volume calling, please leave a voice message.

Georgia WIC
Office of Vendor Management
2 Peachtree Street, NW
10th Floor
Atlanta, Georgia 30303-3142
404-657-2900

Customer service hotline: 1-866-814-5468 (toll free within Georgia)

**Buying, selling, or otherwise misusing WIC benefits is a crime. To report suspected abuse, call 800-424-9121 or visit www.usda.gov/oig/hotline.htm.**

# Civil Rights

## Limited English Proficiency (LEP) – Other Language Services

Title VI of the Civil Rights Act of 1964, prohibits discrimination based on language. Any individual who applies to or participates in the WIC program who is not proficient in English must be provided with an interpreter. See **Federal Regulations:** §246.8 (b), FNS Instruction 113-1, CNPP Civil Rights Policy Notice No. 2013-3

All participants must be advised at the service delivery point of the availability of other language services. As the main food delivery channel for Georgia WIC, the Program asks that each authorized vendor location uses appropriate interpreters to communicate information, where applicable. **Limited English Proficiency (LEP)** resources are available to assure meaningful access for all WIC participants. Approved interpreters are provided via a language line service. See below for instructions outlining the use of the service:

**Language Line Services Quick Reference Guide**

When receiving a call from a participant with limited-English, begin at Step 1; when managing a face-to-face service with a participant with limited-English, begin at Step 2:

1. PRESS "Conf" to place the non-English speaker on hold
2. DIAL: 1-866-874-3972
3. ENTER on your keypad or provide the representative with the Client ID and Company Name:

   *You may press 0 or stay on the line for assistance.*

   - 6-digit Client ID : 5 1 3 1 8 2
   - Company Name: WIC Branch
4. PRESS 1 for Spanish; Press 2 for all other languages (speak the name of the language when prompted)

   *An Interpreter will be connected to the call.*
5. BRIEF the Interpreter. Summarize what you wish to accomplish and give any special instructions.
6. Add the non-English speaker to the line or call.

When placing a call to an individual with limited-English, begin at Step 2 above.

If you need assistance when placing a call to a non-English speaker, you may press 9 to transfer to a representative at the beginning of the call. The Interpreter will connect you with the person to whom you want to speak. Once connected, the Interpreter will translate your information and the individual's response.