

New Hampshire WIC Policy & Procedure Manual

Chapter 8 CERTIFICATION, ELIGIBILITY & COORDINATION OF SERVICES G. Dual Participation, Participant Rights and Responsibilities, Fair Hearing Procedures, and Sanction System

Participant Notice of Violations and Sanctions-Suspension/Disqualification

Purpose	To have a system in place to address participant violations.
Policy	The local agency shall document the participant violation and notify the participant of pending suspension or disqualification within 5 working days so that education may be provided and future violations may be avoided.
Authority	CFR 246.2, 246.7 (h)(2), 246.12 (u), NH Admin Rules HeP 3207.02
Procedure	The local agency shall respond to a participant notice of violation as informed by the State Agency in the timeframe specified and with the actions required for suspension and disqualifications.

There are 3 levels of participant violations: Category I, Category II, and Category III. The violation level and frequency determines the warning, suspension or disqualification to be issued. See Violation & Sanction Chart for more detail. See Notice of Violation-Warning policy and Fair Hearing policy.

1. Upon email from the State Agency [SA] notice of participant/payee violation resulting in suspension/disqualification, the local agency [LA] shall send a reply confirmation to the SA upon receiving the email. This will serve as documentation of receipt of notice by the LA.
2. Within 5 working days of receiving the notice from the SA, the LA shall notify the participant in writing of the violation and the pending suspension/disqualification [S/DQ] on local agency letterhead. Violations for infants or children, although done by an adult payee or proxy, affect the infant/child's participation in WIC. When an infant or child is identified in a notice of violation, all correspondence shall name the affected infant/child but shall be directed to the adult payee. The LA notice shall include details of the violation as sent to the LA by the SA. The LA notice shall include the mandatory appeal rights language; see mandatory appeal language document. LA shall send a copy of the participant's S/DQ notice to SA. The copy may be faxed, scanned or emailed to the SA.

The notice on the LA letterhead shall be sent certified mail. The notice may be hand delivered at a WIC clinic if able to deliver within 5 working days or after the certified mail is refused or returned non-deliverable.

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The following procedure shall be followed:

- **Certified Letter sent:** LA shall send a copy of the signed and dated* certified receipt of delivery card once returned to the LA. If the letter is refused or returned as non-delivered, a copy of the "return as non-delivered" envelope is sent to SA. If refused or non-delivered, staff shall follow hand-delivered option at the participant/payee's next WIC appointment.
- **Hand delivered and signed for at a WIC Clinic:** The participant's StarLINC Admin notes shall be flagged that a notice of violation must be provided at the next appointment. The following shall be written on the S/DQ letter of notice, the words "hand delivered", the program staff and participant's signature and date* (see below). A dated* copy with both signatures is made and filed at the LA. The hand delivered original is provided to the participant/payee.

"HAND DELIVERED" DATE* _____
Participant/Payee Name _____ Signature _____
Staff Name _____ Signature _____

3. The **Date*** that the participant signs indicating s/he has received S/DQ notice via certified mail or the **Date*** that S/DQ notice is signed and delivered at the WIC office is a critical piece of information. This **Date*** is used to determine the 30 days allowed to request a waiver by the LA or the 60 days allowed to request a fair hearing by the participant.

Request for a waiver within 30 days of successful notification of violation to the participant/payee.

A LA nutritionist/CPA *may* request a waiver. A waiver may only be requested by a nutritionist/CPA who has determined that the imposition of the suspension would create an extreme nutritional hardship for the participant. A requested waiver is in the name of the participant who is affected by the violation on LA letterhead, to the attention of the State Nutrition Coordinator. LA should consider and review the participant/payee history of violations. Monthly issuance is a condition of approved waivers so that education on proper voucher redemption and handling will be provided.

4. Staff shall document the following in the participant's StarLINC Admin notes:
 - Receipt and details of suspension/disqualification notice from the State Agency;
 - The date the S/DQ letter was sent to the participant;

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- The date of receipt delivery of the certified letter or notification from the post office of non-delivery/refusal;

If refused or unable to deliver, the local agency shall document the need to hand-deliver the notice to the participant/payee's at their next WIC appointment. Note shall also include that no benefits are to be provided until the notice has been hand-delivered.

- Request for a waiver;
- Waiver request outcome and condition of the waiver;
- Education provided;
- Updates from the State Agency on request for Fair Hearing, and/or effective dates for suspension or disqualifications; and
- Need for proxy for a participant. (See related appointment proxy policy.)

5. The LA shall maintain a of file participant violations which shall include copies of:

- Letter sent to the participant/payee;
- Receipt of delivery card or copy of non-delivered front of envelope;
- Dated and signed Hand-Delivered letter when this option is used; and
- Pertinent correspondence to and from the participant/payee.

Exception

State Agency procedure for participant claims for the full value of benefits when Program benefits are improperly obtained through participant violation is as follows:

Upon SA determination of a violation due to a participant violation requiring - repayment and possible disqualification—i.e. fraudulent or dual participation in WIC, a certified letter from the SA is sent to the participant/payee that contains a summary of the violation, citation of the appropriate State Admin rules, the required period of disqualification, the participant's rights to a fair hearing and a demand for repayment (to be set up as a payment plan or in full to the participant/payee) within 5 business days. A copy of the letter is emailed to the local agency director and nutrition coordinator. The SA keeps the LA apprised of the receipt date of successful delivery of notification to the participant/payee/caregiver.

The SA awaits contact from the participant/payee/caregiver to discuss payment plan. When payment is negotiated, a summary of agreed payment plan is sent to the participant/payee/caregiver to sign. Included with the payment agreement are directions to make all payments by cashier check or money order made payable to the State

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of NH. An invoice and self-addressed envelope to the SA is sent by the SA on a monthly basis via certified mail until the payment is retired.

If after 30 days upon the receipt of the letter, if restitution is not made or a repayment schedule is not agreed upon, the SA will conduct a cost-benefit analysis to determine if collection efforts are cost effective.

If the family indicates payment is not feasible and/or the SA determines it is not cost effective to pursue payment, the option of a proxy is discussed with the SA Director for participants < 18 years of age. When a proxy is assigned under this circumstance, it is for one year or the duration of the DQ; the local agency is informed when a proxy is allowed. The need for a proxy or disqualification is removed if the payment is made in full at any point in the DQ.

All participant violations and the appropriate timeframes needed for compliance with fair hearing requests, fair hearing dates, fair hearing decisions and waivers/proxys are entered into the Warning and Disqualification Tracking document by the SA Nutrition Coordinator.

Local agency role for participant with DQ and claims is as follows, LA shall:

- Document a summary of the DQ in the participant's StarLINC Admin notes. The local agency shall only provide up to 60 days of benefits from the date of successful notification of the violation, disqualification and demand for repayment letter;
- Keep a copy of the DQ/demand letter for repayment and right to a Fair Hearing available for hand delivery should the participant have a WIC appointment in the interim period when the letter from the SA was sent via certified mail yet not delivered/received. Send signed copy to the SA;
- Direct the participant/payee/caregiver to contact the SA to discuss repayment in full, a payment plan or to contact the State Administrative appeals to request a Fair Hearing; and
- Update the participant(s) StarLINC record for DQ updates and guidance provided by the SA, hand delivery of letter, fair hearing and/or proxy assignment.

Best Practice

Avoid violations through thorough participant education on the proper use of WIC benefits, behavior and the rights and rules of the WIC Program.

Copy notes or place "see notes" in the records of all other WIC family participant's records.