

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 Right to a Fair Hearing

Purpose	To provide all participants the right to a fair hearing.
Policy	The local agency shall inform all participants/payees/proxies of their right to a fair hearing and provide written instructions to all participants/payees on how to request a fair hearing.
Authority	7 CFR 246.9 (a)
Procedure	<p>At the time of certification when determining eligibility, all participants, payees, and proxies shall be offered a copy of the WIC Rights and Rules and/or directed to where to access the document on line. The WIC Rights and Rules document includes information on their right to a Fair Hearing and how to request one. Some participants may also receive notification of their right to a Fair Hearing at their second follow up nutrition (FUN) contact, if their eligibility period is ending soon or they have a change in eligibility, i.e. a woman who stops breastfeeding after 6 months postpartum, or a participant who has a change in income that makes her/him over-income.</p> <p>In addition to informing all participants, payees, and proxies of their right to a fair hearing at time of certification or FUN appointment, the following circumstances require the local agency to provide more detailed notification <u>in writing</u> on the right to a fair hearing and the appeal process:</p> <ol style="list-style-type: none">1. participants who have been suspended,2. participants who have been disqualified,3. participants who have been terminated prior to their end of certification (i.e. woman stops breastfeeding after 6 months postpartum), or4. participants/applicants who have been denied certification (i.e. over-income at time of application). <p>The notification letter for participants terminated prior to end of certification and participants denied certification at time of application, is within StarLINC. This letter will print automatically when the participant is terminated in StarLINC and the reason for termination is selected. The letter includes:</p> <ul style="list-style-type: none">• Notification of appeal rights.• Time line to request an appeal.• Information required in an appeal request• Where to send the appeal request.• Result of not requesting an appeal.

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Staff shall be aware of the following timelines that need to be met by the Administrative Appeals unit when participants request a fair hearing.

The Administrative Appeals unit will:

- Provide notification of the fair hearing time and place within 10 days of the hearing date.
- Conduct the fair hearing within 3 weeks of the first request for the fair hearing.
- Provide notification of the fair hearing decision will be provided within 45 days of the participant's request for a fair hearing.

If the participant requests a hearing due to a denial of benefits at the initial certification, after their certification period has expired, or after a participant is categorically ineligible, Program benefits and food instruments shall NOT be provided while their hearing is processed.

The notification letter for participants who have been suspended or disqualified during a certification period is provided by the local agency on letterhead with the mandatory appeal language included. See Participant Notice of Violation and Sanctions-Suspension/Disqualification policy and Mandatory Appeals Language document.

A participant who requests a fair hearing within 60 days of being notified of the disqualification or suspension shall continue to receive Program benefits and food instruments until the hearing official reaches a decision or the certification expires, whichever occurs first.

Exception

No exceptions