

Division of Community Nutrition

<i>Subject:</i> Collection of Improperly Issued Benefits / Claims Against Participants		<i>Policy:</i> ADM 05.2
<i>Reference:</i> CFR §246.7 & §246.23	<i>Effective:</i> August 12, 2013	<i>Supersedes:</i> January 25, 2010

I. Policy:

The State WIC Office (SWO) may establish a claim against the participant for the full value of such benefits improperly obtained or disposed of and any fees or additional expenses incurred. These improper acts include but are not limited to inaccurate certification information, dual participation violations, proxy abuses, redemption of future food benefits after being disqualified or program abuses as defined by policy or regulatory statute.

II. Procedure

- A. The participant who defrauds or abuses the program will be liable for prosecution under Federal, State or local laws when appropriate. The local agency shall report findings of possible fraud or abuse to the SWO Operations Liaison for consultation, review and resolution.
- B. The designated SWO Operations Liaison shall report findings to the appropriate Federal USDA office, if required.
 - 1) For all claims, the State agency shall issue a letter demanding repayment. The letter shall contain the following:
 - a. Clarify the reasons for the claim and the value of the improperly issued benefits, which shall be re-paid.
 - b. Inform the participant that s/he has 15 days from receipt of the letter to contact the State WIC Office.
 - c. Inform the participant that failure to pay the claim may result in disqualification for future program benefits.
 - d. Be mailed by certified mail with return receipt requested and also a copy mailed through first class mail to the address on file.
 - e. Also shall be mailed to any other address associated with the client in the file, any other address discovered through subsequent investigations, and addresses of all proxies, if available.
 - f. Advise the participant of the procedures to follow to obtain a fair hearing, in accordance with PRR 06.0. The timeframes noted in PRR 06.0 do not apply in these situations.

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- 2) If full restitution is not made or a repayment schedule is not agreed on within 30 days of receipt of the letter, the SWO will take legal collection actions until restitution is made or a repayment schedule is agreed upon, unless the SWO determines that such collection actions would not be cost-effective.
- 3) The standard for determining that collection actions are no longer cost-effective will weigh the amount of the claim against the cost of reclaiming the program benefits. This cost of reclaiming will include time and effort of the State or local agency, as well as collection and legal cost.
- 4) The SWO will determine whether disqualification of the participant is required by the Mandatory Disqualification Section, in accordance with ADM 05.0. If the SWO assesses a claim(s) of \$100 or more, dual participation, or assess a second or subsequent claim of any amount, the SWO shall disqualify the participant for one year

C. Types of restitution.

- 1) In lieu of financial restitution, the SWO may opt to allow participants, parents or caretakers of infant or child participants for whom financial restitution would cause undue hardship to provide restitution by performing in-kind services approved only by the SWO.
- 2) Restitution may not include offsetting the claim against future program benefits, even if agreed to by the participant or the parent or caretaker of an infant or child participant.

D. Disposition of claims.

- 1) The SWO will document the disposition of all participant claims.

E. Delegation of claims responsibility.

- 1) The SWO may delegate to its local agencies the responsibility for collecting participant claims under the supervision and monitoring by the Program.