

Division of Community Nutrition

<i>Subject:</i> Fair Hearings		<i>Policy:</i> PRR 06.0
<i>Reference:</i> C.F.R. § 246.9	<i>Effective:</i> August 13, 2013	<i>Supersedes:</i> August 1, 2008

I. Policy:

The Virginia WIC program shall provide a hearing procedure for participants or applicants to appeal a SWO or local agency action which results in a claim for repayment of the cash value of improperly issued benefits or in the individual's denial of participation or disqualification from the program. Local agency personnel shall inform each individual of the right to a fair hearing through the Fair Hearing brochure at the time of a claim against the individual or at the time of participation denial or disqualification from the Program.

II. Procedure(s):

- A. A request for a hearing is defined as any clear expression by the participant or applicant that they desire an opportunity to present the case to the SWO hearing officer within 60 days from the date the agency gives the applicant or participant the notice of adverse action. Local agency personnel shall not interfere with the individual's freedom to request a hearing. Local agency personnel shall notify the Operations Liaison of the intent of a hearing. SWO hearing officer will follow federal guidelines for processing the hearing.
- B. The SWO or local agency personnel shall deny or dismiss a request for a hearing if the request is not received within the 60 day timeframe, the request is withdrawn by the participant or applicant, the appellant fails to appear at the scheduled hearing, or the appellant has been denied participation from a previous hearing fair hearing.
- C. Participants who appeal the termination of benefits within 15 days of the adverse action shall continue to receive benefits until the hearing official reaches a decision or the certification period expires, whichever occurs first.
- D. Fair hearings are guided by the SWO hearing officer, and officiated by an impartial hearing officer designated by the Virginia Department of Health. Information gathered should be retained, and communication with the appellant shall be clear detailing the incident, dates and personnel involved.
- E. All fair hearing requests shall be reviewed by the SWO hearing officer, or operation liaison, whichever SWO management assigns within 10 days of receipt. Family alert or notes shall document the status of the fair hearing. All fair hearing requests shall be addressed with the participant or applicant within 3 days of receipt in a prehearing conversation.
- F. All hearing requests that involve ineligible participants or applicants shall have an operation liaison review the documentation to verify validity, and that there are no changes in policy that may deem the applicant eligible for WIC.

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- G. Fair hearings are conducted at the convenience of the appellant, and can be done through a conference call. Local agency personnel shall adhere to the decision and guidance given by the hearing office, operation liaison, or SWO hearing officer.