
Purpose Provide overview of the procedures for Local Agencies to appeal a State Agency decision

Reasons for Appeal In accordance with Federal Regulation 246.18, a local agency has the right to appeal any adverse action which affects their participation as a WIC local agency. This includes:

1. Denial of application
2. Sanctions
3. Disqualification
4. Penalties
5. Termination of agreement.

Notice of Adverse Action If adverse action is taken against a local agency, notice must be sent to the local agency in writing. The letter must explain the following:

1. The reason or reasons for the adverse action
2. The effective date of the action
3. The time period during which an appeal may be brought.

The Department of Health and Human Services must notify a local agency at least 15 days in advance of the effective date of the action, except that participating local agencies must be given 60 days advance notice. The local agency has 30 days to appeal the decision after it becomes final by making a written request to the Department of Health and Human Services for a hearing. The hearing time and place must be determined by the Department within 30 days after receiving the request for a hearing.

Hearings The hearing shall be held no later than 60 days after the request for the hearing. The hearing will be conducted by a fair hearing officer.

During the hearing the local agency and the Nebraska Department of Health and Human Services will each have the opportunity to:

1. Present their cases
2. Confront and cross-examine witnesses
3. Be represented by local counsel.

Based upon the evidence presented at the hearing, the decision for the adverse action stands, is changed or is overturned.

If a party is unhappy with the hearing decision, it can be appealed to a judicial review.

Nebraska's WIC Administrative Appeal Procedures are codified as state regulations. These regulations, 181NAC3, provide a more detailed description of the appeal process, and a copy is included in Volume V, Section O.
