
Purpose

Describe process for participants and applicants to request and receive a fair hearing.

**Process for
Requesting a
Fair Hearing**

- A. In accordance with federal regulation 246.9, any individual may appeal a State or Local Agency decision which results in one or more of the following:
1. A claim against the individual for repayment of the cash value of improperly issued benefits.
 2. Denial of participation in the Program.
 3. Disqualification from the Program.
- B. Written notice must be provided to individuals regarding these adverse actions.
1. Fifteen days notice is to be given prior to the effective date for disqualification or claims for cash repayment.
 2. In cases of dual participation, the action is effective immediately upon written notice.
- C. An individual may request a hearing either verbally or in writing.
1. The request may be made by the applicant or participant or their parent, caretaker or representative.
 2. The local agency staff cannot interfere with the request.
 3. The request is to be submitted to the local agency and then transmitted to the State WIC office.
 - a. The request is to be signed by the person making the request.
 - b. No particular form is required.
 - c. Staff will help the individual put the request in writing, if necessary.
 - d. The local agency WIC director is responsible for transmitting the request to the State WIC office.
- D. The applicant or participant has sixty (60) days to request a hearing from the time he/she was given written notice of adverse action.
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**Receipt of
Participant
Benefits**

- A. If a participant requests a hearing within the 15 days advance adverse notice period, the participant will continue to receive benefits until the hearing officer reaches a decision or the certification period expires, whichever comes first. Exceptions include:

1. Participants denied benefits because their certification expired.
 2. Applicants denied benefits at their initial certification.
 3. Participants who become categorically ineligible for benefits.
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**State Agency
Responsibility**

- A. The Nebraska Department of Health and Human Services is responsible for the following:
 1. Setting the time, date and place for the hearing.
 - a. These must be set within 7 days of receiving the request.
 - b. The hearing date must be within 21 calendar days of the request.
 2. Providing notice of the hearing to the person making the request, ensuring receipt at least 10 days before the hearing.
 3. Naming the hearing officer.
 4. Conducting the hearing.
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**State
Regulations**

- A. The fair hearing procedures for the Nebraska WIC Program have been codified as state regulations, 181NAC4. These regulations provide more detail about the hearing procedures, and a copy is found in Volume V, Section O.