

General Volume
Monitoring & Compliance Section

Program Violations (1.06200)

ER# 1.06200

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POLICY: All reports of possible violations by participants, authorized representatives and/or proxies reported by the public, WIC vendors or the State WIC staff shall be investigated by Local WIC Providers (LWP). Program Violations and the Sanctions Guidelines are used to impose appropriate sanctions for substantiated violations.

Only State WIC staff shall authorize a sanction that disrupts a participant's program participation and benefits when a program violation is substantiated. Mandatory Federal regulations shall be followed when determining appropriate sanctions.

Written notification of a sanction and the right to a fair hearing shall be sent to the participant or authorized representative at least 15 days prior to the beginning of a sanction. If a hearing is requested the participant shall be referred to the State WIC Fair Hearing Officer.

DEFINITIONS:

Program violations are defined as any intentional act of a participant, authorized representative or proxy that violates Federal or State statutes, regulations, rules, policies or procedures governing the WIC program. Program violations include, but are not limited to:

1. The participant became eligible or continued eligibility for participation in the WIC program by:
 - a. Intentionally making false or misleading statements.
 - b. Intentionally misrepresenting, concealing, or withholding information.
2. To increase the type and amount of WIC supplemental foods issued on food instruments, the participant:
 - a. Intentionally made false or misleading statements.
 - b. Intentionally misrepresenting, concealing or withholding information.
3. To intentionally violate, exploit, counterfeit, alter or otherwise cause deception in the use of food instruments by:
 - a. Exchanging food instruments or supplemental foods for:
 - i. Cash (including, but not limited to, advertising to sell WIC formula and/or foods on social media sites such as Facebook, Craigslist, Swap and Shop sites, etc.)

- ii. Credit,
 - iii. Non-food items, or
 - iv. Unauthorized food items (including supplemental foods in excess of those listed on the participant's food instrument).
 - b. Alteration of food instrument "issue date" in order to redeem an expired food instrument.
 - c. Reporting food instruments that have been or will be redeemed (spent) as lost or stolen in order to obtain additional food.
 - d. Giving food instruments or WIC foods to anyone other than to the participants for whom they were issued or those authorized to purchase WIC foods.
- 4. Verbally abusing or verbally threatening to harm LWP staff, vendor's employees, or other participants/authorized representatives/proxies.
- 5. Physically harming or threatening to cause physical harm to LWP staff, vendor's employees, or other participants/authorized representatives/proxies.

PROCEDURES:

A. Investigating Program Violations

- 1. The LWP shall interview the participant, authorized representative and/or proxies involved. The interviewer may do any or all of the following:
 - a. Have a witness present. The witness may be either or both:
 - i. Another member of the LWP staff.
 - ii. State WIC staff.
 - b. Prepare in advance the issues to be covered.
 - c. Write up the main points for sharing with the participant.
 - d. Request signatures from individuals involved at the conclusion of the interview. Scan the signed document in MOWINS.
- 2. The LWP shall document in the general notes in MOWINS all of the following:
 - a. The nature of the incident.
 - b. Written statements regarding the alleged violation.
 - c. The outcome of the interview.
 - d. Instructions given to the participant regarding:
 - i. What constitutes a participant violation?
 - ii. Rights and responsibilities, including the right to a fair hearing.

B. At the conclusion of the investigation, a decision of the validity of program violation will be made by the LWP.

- 1. If the violation cannot be substantiated, sanctions will not be assessed.

2. When a violation is proven by LWP and State WIC staff, the appropriate sanction for the violation is imposed. The "Table of Program Violations and Sanctions" will be used to determine the appropriate corrective action.
 - a. When a suspension or disqualification is appropriate, the State WIC office shall provide written notification of the action, the reason(s) for the action, and the right to a fair hearing to the participant with a copy of the notification to the LWP. The notification will be scanned into MOWINS by the LWP.
 - b. The State WIC staff assures that the sanction letter is received by the participant at least 15 days in advance of the pending sanction by sending certified mail, return receipt requested.
3. A monetary claim against a participant, authorized representative or proxy is assessed when the State WIC staff determines that program benefits have been obtained or disposed of improperly.
 - a. The claim will be for the full purchase price on the redeemed food instruments except for infant formula benefits.
 - b. For infant formula benefits, the claim will be 50% of the purchase price on the redeemed formula food instruments and/or formula directly shipped from the manufacturer.
 - c. The State WIC staff will issue a letter to the participant, which will include the following information.
 - i. Reason(s) for the claim.
 - ii. Amount of repayment due.
 - iii. Instructions and the address for making cash restitution of imposed claims.
 - iv. Procedures to follow to obtain a fair hearing.
 - v. Failure to pay the claim may result in disqualification.
 - d. If full restitution is not made or a repayment schedule is not agreed upon within thirty days (30) of receipt of the letter,
 - i. The State WIC office will take additional collection actions until restitution is made or a repayment schedule is approved.
 - ii. The State WIC office may determine that further collection actions would not be cost-effective.
 - iii. Restitution may not include offsetting the claim against future program benefits.
 - e. The State WIC staff must document the disposition of all participant claims.
4. Except as provided in B5 & B6 below, mandatory participant disqualification from the program for a period of one (1) year must be imposed when the State

WIC staff assesses:

- a. A claim of \$100 or more.
 - b. A second or subsequent claim (of any amount).
 - c. Verification that a participant received WIC benefits from more than one agency (dual participation) whether participation at both sites is either within the State of Missouri or between the State of Missouri and another State; or, if a participant reported benefits as lost, received replacement benefits, and redeemed both sets of benefits.
 - d. ~~Verification that the participant received WIC and Commodity Supplemental Food Program (CSFP) benefits at the same time (dual participation).~~
5. The State WIC staff may determine not to disqualify if:
- a. Full restitution is made or a repayment schedule is agreed on within thirty days (30) of receipt of a letter notifying the participant of the claim and requiring repayment.
 - b. The participant is an infant or a child, or under age eighteen (18) who may result in serious health risk. The State may approve the designation of a proxy to obtain the benefits for the participant.
6. The State WIC staff may end the one (1) year mandatory disqualification prior to the end of that year if:
- a. The State WIC office receives full restitution.
 - b. A repayment schedule is agreed upon.
 - c. The participant is an infant or child, or under age eighteen (18) who may result in serious health risk, and the State WIC office approves a designated proxy.
7. When appropriate, the State WIC office must refer participants who violate program requirements to federal, state or local authorities for prosecution under applicable statutes.
- C. The State WIC staff will authorize an adverse action discussed in this policy only when all of the following conditions are met:
1. The participant's file contains sufficient written documentation to substantiate the violation.
 2. The State WIC staff can verify that the LWP has attempted to work with the participant to correct the situation.
 3. The State WIC staff has determined that the action will not harm the health of the participant.
 4. The State WIC staff has discussed this action with the LWP and determined the most appropriate action to take in the specific case.
- D. After the preceding is satisfied, the State WIC staff will authorize in writing the

appropriate adverse action.

1. The State WIC staff specifies the length of time the adverse action will be in effect. A suspension will not exceed three months.
2. The report shall be documented in the general notes in MOWINS or the signed report shall be scanned in the participant folder in MOWINS by the LWP.

E. Table of Program Violations and Sanctions

INCIDENT/VIOLATION	ACTIONS/SANCTIONS
<p>Make false or misleading statements, or misrepresent, conceal or withhold information to become eligible or to continue eligibility for participation in the WIC program.</p>	<ul style="list-style-type: none"> • Termination from the program with 15 days advance notice. • Establish a claim for benefits received.
<p>Make false or misleading statements, or misrepresent, conceal or withhold information to increase the type and amount of WIC supplemental foods issued on food instruments.</p>	<p>First offense:</p> <ul style="list-style-type: none"> • Establish a claim for over issuance of benefits. <p>Second offense:</p> <ul style="list-style-type: none"> • Establish a claim for over issuance of benefits. • Disqualification for 1 year (or until claim is paid in full).
<p>Violate, exploit, counterfeit, alter or otherwise cause deception in the use of food instruments by exchanging food instruments or supplemental food for cash, credit, non-food items, or unauthorized food items (including WIC foods in excess of those listed on the participant's food instrument).</p> <p>Alteration of food instrument last date to use in order to redeem an expired food instrument.</p> <p>Giving food instruments or WIC foods to anyone other than to the participants for whom they were issued or those authorized to purchase WIC foods for whom they were issued.</p>	<p>First offense:</p> <ul style="list-style-type: none"> • Warning letter issued by state office. • Establish a claim for misuse of benefits. <p>Second offense:</p> <ul style="list-style-type: none"> • Establish a claim for misuse of benefits. • Disqualification for 1 year (or until claim is paid in full). • Referral to law enforcement authorities for prosecution under applicable statutes (when appropriate).

<p>Advertising to sell formula and/or foods which are the same type of formula/food issued by WIC for the participant and/or authorized representative.</p>	<p>First offense:</p> <ul style="list-style-type: none"> • Warning letter issued by the state office <p>Second offense:</p> <ul style="list-style-type: none"> • Establish a claim for formula and/or foods being advertised for sale. • Disqualification for 1 year (or until claim is paid in full)
<p>Reporting instruments that have or will be redeemed (spent) as lost or stolen in order to obtain additional food.</p>	<p>First offense (if less than \$100):</p> <ul style="list-style-type: none"> • Establish a claim for over issuance of benefits. <p>First offense (if \$100 or more):</p> <ul style="list-style-type: none"> • Establish a claim for over issuance of benefits. • Disqualification for 1 year (or until claim is paid in full). <p>Second offense (regardless of amount):</p> <ul style="list-style-type: none"> • Establish a claim for over issuance of benefits. • Disqualification for 1 year (or until claim is paid in full).

Verbally abusing or verbally threatening to harm LWP staff, vendor's employees, or other participants, authorized representatives and/or proxies.

First offense:

- Ask offender to leave and return when under control.
- Issue warning letter.

Second offense:

- Ask offender to leave
- Issue letter banning from LWP site or vendor site, requiring offender to send someone else to pick up food instruments at the LWP site or to redeem food instruments at the vendor site.

Third offense:

- Ask offender to leave
- Issue letter banning from LWP site or vendor site, requiring offender to send someone else to pick up foods instruments at the LWP site or to redeem food instruments at the vendor site.
- Suspension from the program (not to exceed 3 months).

Physically harming or threatening to cause physical harm to LWP staff, vendor employees, or other participants, authorized representatives and/or proxies.

Per occurrence:

- Ask offender to leave and send proxy to pick up food instruments at the LWP site or redeem food instruments at the vendor site.
- Call local authorities to have offender removed (if necessary).
- Issue letter banning offender from the LWP site or vendor site, requiring participant or authorized representative to send proxy to pick up food instruments at the LWP site or redeem food instruments at the vendor site.
- Suspension from the program (not to exceed 6 months).
- When appropriate, refer to local authorities for prosecution.