

<p style="text-align: center;">Nutrition Services Department of State Health Services</p>

Effective November 1, 2008

Policy No. CR:03.0

Fair Hearing Procedure for Applicants/Participants

Purpose

To ensure that any individual may appeal a state agency (SA) or local agency (LA) action which results in the individual's denial of participation, suspension, a claim against the individual for repayment of the cash value of improperly issued benefits, or termination from the program for any reason; and to ensure any individual has the opportunity to request and be afforded a fair hearing.

Authority

7 CFR Part 246.9; 25 TAC §31.29

Policy

The LA shall refer to the SA any individual who wishes to appeal a SA or LA action which results in the individual's denial of participation, suspension, a claim against the individual for repayment of the cash value of improperly issued benefits, or termination in the program.

Procedures

- I. The LA shall make every effort to assist an individual when that individual wishes to request a Fair Hearing. Within 60 days following the date of denial of participation, suspension, a claim against an individual for improperly issued benefits, or termination from the program, an individual may make an oral or written request for a "Fair Hearing." The request shall be addressed to:

Director, WIC Program
Department of State Health Services
P.O. Box 149347 Mail code 1933
Austin, Texas 78714-9317

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Toll-free 1-800-942-3678 or
email: wicgeneral@dshs.state.tx.us

- II. Participants who are to be terminated during a certification period and who appeal within 15 days after notification of termination, shall continue to receive program benefits until a hearing decision is reached or the certification interval ends, whichever occurs first. An appeal after the 15 day time limit shall not result in continued benefits.
- III. Applicants who are denied benefits at the initial or subsequent certification may appeal the denial but shall not receive benefits pending the hearing decision.
- IV. If the decision is in favor of the appellant and benefits were denied or discontinued, benefits shall begin immediately.
- V. If the decision concerns disqualification from the program, and is in favor of the agency, as soon as administratively feasible, the LA shall terminate any continued benefits.
- VI. If the decision regarding repayment of benefits by the appellant is in favor of the agency, the SA or LA shall resume its efforts to collect the claim.
- VII. The procedures the SA shall follow are:
 - A. The hearing shall be scheduled within three weeks from the date the request is received. The State shall provide appellant with a minimum of ten days advance written notice of the time and place of the hearing and shall enclose an explanation of the hearing procedure with the notice.
 - B. The convenience of the applicant/participant shall be of prime consideration in the selection of the time and place of the hearing.
 - C. An impartial hearing official, who did not participate in making the decision under appeal, shall be designated.

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- D. The person appealing may be represented by an attorney or other person and shall have the opportunity to examine, prior to or during the hearing, the documents and records presented in support of the decision under appeal.
- E. During the hearing, the person shall have the opportunity to question or refute any testimony or other evidence and to confront and cross-examine any witnesses.
- F. The decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing.
- G. The person appealing and any designated representative shall be notified in writing of the hearing official's decision within 45 days from date of the request for the hearing.