

# **Chapter 6F**

## **Certification and Participation: Program Abuse By Participants**

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The purpose of this chapter is to provide policy and procedures on issues related to abuse of the program by a participant/parent/guardian/caretaker of an infant or child participant, or a proxy and sanctions that must be imposed when violations occur. Sanctions include the recovery of funds related to the value of program benefits that have been obtained or disposed of improperly as the result of a participant violation.

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## **Participant Violations And Sanctions**

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A participant violation of the WIC Program is any intentional act of a participant, parent, guardian or caretaker of an infant or child participant, or proxy that violates Federal or State statutes, regulations, rules, policies or procedures governing the WIC Program. Once program abuse by a participant, parent or caretaker of an infant or child participant, or proxy is suspected or a complaint is received, Local Agency staff is required to investigate the situation and take appropriate action.

North Carolina's procedures for dealing with WIC Program abuse do not exclude or replace any criminal sanctions, civil sanctions, or other remedies that may be applicable under federal or state statute or local ordinance.

Refer to Section 3 for information on recovering funds in cases of program abuse by a participant/parent/guardian/caretaker of an infant or child participant, or proxy.

### **■ Handling Suspected Or Reported Participant Violations**

Once program abuse by a participant/parent/guardian/caretaker of an infant or child participant, or proxy is suspected or a complaint is received, staff should take the following steps.

- ▶ Document in the Crossroads system, to the fullest extent possible, the suspected/alleged program abuse. Scan any evidence into the Crossroads system. Any evidence that cannot be scanned must be kept on file using standard procedures chosen by local agency.
- ▶ Discuss the situation, with a local agency witness present, with the participant or parent/guardian/caretaker of an infant or child participant, or the proxy within one month. Staff may need to schedule a special appointment with the person if the next visit (i.e., issuance or subsequent certification) is several weeks away. Show the participant/parent/guardian/caretaker their captured signature pertaining to the rights and responsibilities in Crossroads. Verify to the participant/parent/guardian/caretaker that the alleged action(s) violate the rights and responsibilities to which they have agreed. Document all actions taken.
- ▶ Let the participant/parent/guardian/caretaker make a statement on her/his behalf and document the response.
- ▶ Based on the available documentation, the response of the participant/parent/guardian/caretaker and the severity of the violation, staff should determine the appropriate sanction(s) for the participant and proceed accordingly. Staff may wish to discuss the sanctions with the agency's Health Director or other administrative staff of the agency prior to imposing on the participant.

Section 1: PARTICIPANT VIOLATIONS AND SANCTIONS

**■ Violations With Resulting Sanctions**

When a violation is committed by a participant/parent/guardian/caretaker of an infant or child, or a proxy; there are sanctions that must be imposed. The table below outlines the type of violation and the resulting sanction(s) against the participant.

<b>Violation</b>	<b>Sanction Against Participant</b>
<ul style="list-style-type: none"> <li>▪ sale of or intent to sell for cash food instruments, cash-value vouchers, supplemental food, breast pumps or breastfeeding supplies, verbally, in print or online through websites such as craigslist, Facebook, Twitter, eBay etc., or allowing someone else to do so</li> </ul>	<p>When committed by a participant, parent, guardian or caretaker of an infant or child participant, or a proxy; any of these violations shall result in:</p> <ul style="list-style-type: none"> <li>▪ a one-year disqualification of the participant from the WIC Program* and</li> <li>▪ the assessment of a claim for the full amount of any improperly obtained or disposed of Program benefits.</li> </ul>
<ul style="list-style-type: none"> <li>▪ exchanging food instruments, cash-value vouchers or supplemental food for alcohol, alcoholic beverages, tobacco products, firearms, ammunition, explosives, or controlled substances;</li> </ul>	
<ul style="list-style-type: none"> <li>▪ intentionally participating simultaneously in one WIC Program under two names, or in more than one WIC Program, or participating in the WIC Program and the Commodity Supplemental Food Program ("CSFP") (Refer to Section 2 for information on dual participation.);</li> </ul>	
<ul style="list-style-type: none"> <li>▪ intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain Program benefits, including failing to report correct income during the certification process (e.g., reporting more members than actually live in the household; failing to report members of the household and/or their income during the certification process; not residing at the residence claimed during the certification process)</li> </ul>	
<ul style="list-style-type: none"> <li>▪ incurring any participant violation for which a claim of one hundred dollars (\$100.00) or more is assessed</li> </ul>	
<ul style="list-style-type: none"> <li>▪ incurring a second or subsequent claim assessed for any participant violation, regardless of the dollar amount. The second or subsequent claim does not have to be for the same participant violation as the initial claim to result in a one-year disqualification.</li> </ul>	
<ul style="list-style-type: none"> <li>▪ inflicting physical harm to clinic, farmer’s market or vendor staff</li> </ul>	
<ul style="list-style-type: none"> <li>▪ exchanging for credit food instruments, cash-value vouchers, supplemental food, breast pumps or breastfeeding supplies, verbally, in print or online through websites such as craigslist, Facebook,</li> </ul>	<p>When committed by a participant, parent, guardian or caretaker of an infant or child participant, or proxy;</p>

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Violation	Sanction Against Participant
<p>Twitter, eBay etc., or allowing someone else to do so</p>	<p>these violations shall result in:</p> <ul style="list-style-type: none"> <li>▪ a written warning for the first violation, and</li> <li>▪ the assessment of a claim for the full amount of any improperly obtained or disposed of Program benefits.</li> </ul> <p>A 90-day disqualification of the participant shall be imposed if, within 30 days of receiving a letter demanding repayment, the claim is not paid in full or a repayment schedule is not agreed upon.*</p> <p>The occurrence of a second or subsequent occurrence of any of these violations shall result in a one-year disqualification of the participant* and the assessment of a claim for the full amount of any improperly obtained or disposed of Program benefits. The second or subsequent violation does not have to be the same as the initial violation to result in a one-year disqualification.</p>
<ul style="list-style-type: none"> <li>▪ exchanging food instruments, cash-value vouchers or supplemental food for non-food items, other than alcohol, alcoholic beverages, tobacco products, firearms, ammunition, explosives, or controlled substances</li> </ul>	
<ul style="list-style-type: none"> <li>▪ exchanging food instruments, cash-value vouchers or supplemental food for unauthorized food items, including supplemental foods in excess of those listed on the participant's food instrument.</li> </ul>	
<ul style="list-style-type: none"> <li>▪ threatening physical harm to, or verbal abuse of clinic, farmer's market, or vendor staff</li> </ul>	<p>When committed by a participant, parent, guardian or caretaker of an infant or child participant, or proxy; this violation shall result in a written warning for the first occurrence of this violation.</p> <p>A second occurrence within a 12-month period shall result in a 90-day disqualification of the participant*.</p>

\* Refer to following discussion in this section about exceptions to the disqualification sanction.

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■ **Exceptions To The Disqualification Sanction**

There are two situations when a disqualification should not be imposed against the participant.

- A claim is assessed and full payment is made or a repayment schedule is agreed upon within 30 days of receipt of a written demand for repayment of the claim for the improperly obtained or disposed of Program benefits.
- The participant is an infant, child, or under age 18 and the state or local agency approves the designation of a proxy for the participant. Designation of a proxy shall be approved only if the proxy:
  - is at least 18 years of age;
  - presents proof of identification in the form of a government-issued photo identification card, work or school identification card, health benefits or social services program card, social security card, birth certificate, or a pay stub or utility bill no more than 60 days old;
  - has written authorization from the participant/parent/guardian/caretaker of an infant or child participant;
  - will be the person who transacts the food instruments, and
  - has not been found previously to have committed abuse against the WIC Program.

■ **Notification And Right To A Fair Hearing**

At the time of a sanction, the participant/parent/guardian/caretaker must be given/sent a written notice of the action being taken. In the cases of suspension or termination, this notice must be provided at least 15 days before the suspension/termination occurs. The notification must be documented in the Crossroads system and include the reason for ineligibility; right to a fair hearing; the method by which a fair hearing may be requested, including the time limit (60 days from the date of the contested decision); who may represent the individual; and the civil rights statement. Refer to Chapter 6D for information on notifications and to Chapter 14 for information on fair hearing requests and administrative appeals.

■ **Reapplying For Program Benefits**

For any disqualification imposed as a result of a participant violation, a participant may reapply for Program participation if, during the period of the disqualification, full payment is made or a repayment schedule is agreed upon, or in the case of a participant who is an infant, child, or under age 18, the state or local agency approves the designation of a proxy as previously discussed in this section.

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## Dual Participation

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A WIC participant shall not participate simultaneously in more than one WIC Program and the Commodity Supplemental Food Program ("CSFP") during the same period of time. Appropriate identification and resolution should take place in the family in which they are participating. All instances of dual participation must be resolved appropriately and agreed amount paid within 120 days of identification.

**Preventing Dual Participation:** At the time of application the local agency staff must navigate to the Family Search screen in Crossroads, select the radio button preceding State-Wide under Search Location and select Search to determine if the applicant/transfer is currently active in NC WIC and take appropriate action to prevent duplicate record creation.

Local agency staff must also emphasize the Participant Rights and Responsibilities in particular #5 at the time of application to alert applicants to their responsibility to not participate in multiple locations or programs simultaneously.

### Local Agency Error

If the local agency is found in error of not preventing the duplication of participant records, then the local agency will be expected to pay back the required amount to the state. It is expected that once the situation has been resolved it will not be generated on the next report.

**Intentional Misrepresentation:** Dual participation resulting from intentional misrepresentation occurs when an individual:

- Receives WIC food instruments or cash-value vouchers under two or more participant identities in a single WIC clinic during the same issuance period and transacts one or more of the food instruments or cash-value vouchers received under two or more of the identities, or
- Receives WIC food instruments or cash-value vouchers from more than one WIC clinic during the same issuance period and transacts one or more of the food instruments or cash-value vouchers received from two or more of the clinics, or
- Receives WIC food instruments or cash-value vouchers from more than one state agency during the same issuance period and transacts one or more of the food instruments or cash-value vouchers received from two or more state agencies, or
- Receives WIC food instruments or cash-value vouchers and CSFP food during the same time period and transacts one or more of the WIC food instruments or cash-value vouchers.

In the case of dual participation resulting from intentional misrepresentation, the participant/parent/guardian/caretaker of an infant or child participant shall repay program benefits improperly received as a result of the dual participation, and the participant (with the exception of infants) may be disqualified from participation in the program for the period of one year from the last issuance date. Refer to Section 1 for more information on sanctions resulting from a dual participation violation.

Section 2: DUAL PARTICIPATION

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**Identification:** Nutrition Services Branch (NSB) staff will run and review the Crossroads Report “Potential Participant Dual Participation Matches” for all local agencies on a quarterly basis (January, April, July, and October).

- Within 30 days of when the NSB identifies potential cases of dual participation, the NSB will send a written request to each affected Local Agency requesting that staff investigate the situation and report back to the NSB.
- Upon receipt of the written request local agency staff will generate the Crossroads Report “Potential Participant Dual Participation Matches” for all clinics in the Agency.

**Investigation:** Local agency staff will investigate the matches listed on the report, and respond back to the NSB within 30 days of receipt of the report. Such investigation may include:

- Reviewing and comparing the data returned by the report for indicators of dual participation, including:
  - Participant ID
  - Name
  - Family ID/Name
  - Certification Start Date
  - Issuance Date
  - Address
- Completing a state-wide search using the Crossroads system to identify that the participant is enrolled in more than one WIC Program and receiving benefits
- Reviewing and comparing the participant’s Crossroads record for resolution of, or indicators of dual participation, including:
  - Proof of identity/residence/income
  - Electronic documentation of Adjunctive Income eligibility
  - Anthro/Lab measurements
  - Source of measures
  - Parent/Guardian name(s)
  - Parent/Guardian signature(s)

**Communicating Outcome:** The local agency staff must complete their investigation and inform the NSB in writing about the outcome within 30 days of receipt of the report. Potential outcomes of the report include:

- The potential match can be disassociated (unmatched). This is resolved through the Crossroads system by NSB staff and will be completed within 30 days of receiving the outcome from the local agency.
- Dual participation has taken place, indicating a program violation. If there is a program violation, staff must notify the participant/parent/guardian/caretaker of an infant or child participant of the violation and sanctions within 30 days of determining the outcome of



the investigation. Refer to Section 1 of this chapter for further guidance on program violations.

All potential dual participation issues must be resolved within 120 days of initial identification.

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## Recovering Funds

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When staff of a Local WIC Agency determines that a WIC participant/parent/guardian/caretaker of an infant or child participant, or a proxy has abused the program, they should recover the cash value amount of food benefits that the individual received while ineligible for the program and/or benefited from by selling, trading, altering or otherwise misusing food instruments, cash-value vouchers, and/or supplemental foods.

### ■ **Determining Amount To Be Recovered**

The Local WIC Agency should have evidence demonstrating the amount of funds that were obtained through program abuse. To help determine the actual cash value of the food benefits in question, the Local WIC Agency staff should request copies of the food instruments and cash-value vouchers in question from the Nutrition Services Branch (NSB) Vendor Unit. Staff should include the number(s) and issuance date(s) of the relevant food instrument(s) and cash-value voucher(s) in the request.

### ■ **Recovering Funds**

To recover funds, Local WIC Agency staff must:

- ▶ notify the WIC participant/parent/guardian/caretaker in writing of the reason for the claim; the cash value of the food benefits that must be paid back to the WIC Program; and the participant's right to a fair hearing;
- ▶ maintain documentation of the notification in the Crossroads system;
- ▶ inform the NSB of the participant/parent/guardian/caretaker/proxy notification; and
- ▶ develop an agreement with the participant/parent/guardian/caretaker, which both parties must sign. This agreement must include a repayment schedule. The NSB requests the repayment schedule be at least \$10.00 per month with the entire balance being paid within one year.

### ■ **Payment Of Recovered Funds**

The Local WIC Agency will receive communication regarding repayment from the Vendor Unit of the Nutrition Services Branch. The WIC participant/parent/guardian/caretaker must make payments according to the instructions received from the Vendor Unit and adhere to the agreed upon payment scheduled. If payments are received by the Local Agency, they should be sent immediately upon receipt to the NSB, Attention: Operations Manager. If the Local WIC Agency cannot recover the funds, it should turn the case over to the NSB.

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