

# 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 deliberate action of a participant, parent, guardian or caretaker of an infant or child participant, or proxy that violates Federal or State statutes, regulations, 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 in the Family Care Plan Section of the Crossroads System, as fully as 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 the 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 in the Family Care Plan section in Crossroads.
  - 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 the sanctions on the participant.

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■ **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>▪ Selling or offering to sell for cash: food benefits, breast pumps or breastfeeding supplies in person, print, or online.</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 benefits for alcohol, alcoholic beverages, tobacco products, firearms, ammunition, explosives, or controlled substances.</li> </ul>	
<ul style="list-style-type: none"> <li>▪ Incurring a claim for dual participation resulting from intentional misrepresentation, including participating simultaneously in one WIC program under two names, or participating in more than one WIC Program (see Section 2 for more 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 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 food benefits, breast pumps or breastfeeding supplies in person, print or online for credit.</li> </ul>	<p>When committed by a participant, parent, guardian or caretaker of an infant or child participant, or proxy; these violations shall result in:</p>

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Violation	Sanction Against Participant
	<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 benefits 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 benefits for unauthorized food items, including supplemental foods more than the food prescription remaining on the family shopping list.</li> </ul>	

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Violation	Sanction Against Participant
<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.*

■ **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 redeems or receives food benefits, 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 Family Care Plan Section 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 state or local agency action); who may represent the individual; and the USDA nondiscrimination statement. Refer to

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Chapter 6D for information on notifications and to Chapter 14 for information on fair hearing requests and administrative appeals.

- ▶ At the time of sanction, a Family Alert must be documented in the Crossroads System with the end date of suspension/termination period to prevent recertification prior to the end of termination period.

■ **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 during the same period. Appropriate identification and resolution should take place in the most recent agency in which they are participating. All instances of dual participation must be resolved appropriately within 120 days of identification. If the dual participation resulted in dual redemption the agreed amount must be paid back in accordance with guidelines outlined in Section 3.

### ■ 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 #5 of the Participant Rights and Responsibilities (Chapter 6D, Section 1) 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 a participant:

- Receives WIC food benefits under two or more participant identities in a single WIC program during the same issuance period and transacts food benefits received under two or more of the identities;
- Receives WIC food benefits from more than one WIC program during the same issuance period and transacts food benefits received from two or more of the clinics; or
- Receives WIC food benefits from more than one state agency during the same issuance period and transacts food benefits received from two or more state agencies.

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 because of the dual participation, and the participant (apart from 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.

■ **Identification**

Community Nutrition Services Section (CNSS) 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 CNSS identifies potential cases of dual participation, the CNSS will send a written request to each affected Local Agency requesting that staff investigate the situation and report back to the CNSS.

■ **Investigation**

Local agency staff will investigate the matches listed on the report and respond back to the CNSS 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 CNSS in writing about the outcome within 30 days of receipt of the report. Potential outcomes of the report include:

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- ▶ The potential match can be disassociated (unmatched). This is resolved through the Crossroads system by CNSS 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. Program violations can be classified as either Local Agency Error or Intentional Misrepresentation. 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 or 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 benefits.

### ■ **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 benefits in question, the Local WIC Agency staff should request copies of the transactions in question from the Community Nutrition Services Section (CNSS) Vendor Unit. Staff should include the issuance date(s) of the relevant transactions 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 CNSS 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 CNSS 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 Community Nutrition Services Section. 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 CNSS, Attention: Operations Manager. If the Local WIC Agency cannot recover the funds, it should turn the case over to the CNSS.

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