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

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 the Family Care Plan section in Crossroads, 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 of suspected violation. 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 in the Family Care Plan section in Crossroads

- 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.

■ **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.

Violation	Sanction Against Participant
▪ Selling or offering to sell for cash: food benefits, breast pumps or breastfeeding supplies in person, print, or online.	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: ▪ a one-year disqualification of the participant from the WIC Program* and ▪ the assessment of a claim for the full amount of any improperly obtained or disposed of Program benefits.
▪ Exchanging food benefits for alcohol, alcoholic beverages, tobacco products, firearms, ammunition, explosives, or controlled substances.	
▪ 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).	
▪ 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).	
▪ Incurring any participant violation for which a claim of one hundred dollars ($100.00) or more is assessed.	
▪ 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.	
▪ Inflicting physical harm to clinic, farmer's market or vendor staff.	
▪ Exchanging food benefits, breast pumps or breastfeeding supplies in person, print or online for credit.	When committed by a participant, parent, guardian or caretaker of an infant or child participant, or proxy; these violations shall result in:

Violation	Sanction Against Participant
	▪ a written warning for the first violation, and ▪ the assessment of a claim for the full amount of any improperly obtained or disposed of Program benefits. 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. * 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.
▪ Exchanging food benefits for non-food items, other than alcohol, alcoholic beverages, tobacco products, firearms, ammunition, explosives, or controlled substances.	
▪ Exchanging food benefits for unauthorized food items, including supplemental foods more than the food prescription remaining on the family shopping list.	

Violation	Sanction Against Participant
▪ Threatening physical harm to, or verbal abuse of clinic, farmer's market, or vendor staff.	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. A second occurrence within a 12-month period shall result in a 90-day disqualification of the participant*.

** 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 Crossroads 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 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 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

A WIC participant shall not participate in the WIC program at more than one clinic simultaneously during the same certification period. Appropriate identification and resolution should take place through the local agency in which they are most recently participating. All instances of dual participation must be resolved appropriately within 120 days of identification. If dual participation results in dual redemption through intentional misrepresentation, the local agency must establish a claim against the participant with a plan for repayment in accordance with guidelines outlined in Section 3 and applicable program sanctions.

- **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 or has been 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 and authorized representatives to their responsibility to not participate in multiple locations or programs simultaneously.

- **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 monthly basis. CNSS will communicate with each affected local agency within 30 days of identifying potential cases of dual participation to request that the local agency investigate, resolve, and report status.

- **Investigation and Resolution**

  - Investigation. Local agency staff will investigate the matches listed on the local agency 'Potential Participant Dual Participation Matches Report' provided by CNSS through review and comparison of data for indicators of potential dual participation.
    For each participant match, the local agency is responsible for determining if the individuals are separate and distinct individuals or the same individual.
    - When identified as the same individual, the local agency must determine if there are overlapping certifications, overlapping benefits, and/or dual redemption has occurred for any of the matches.

  - Resolution. The local agency has 30 days following CNSS notification to report the outcome of the investigation using the Local Agency Dual Participation and Redemption Investigation template. The local agency must maintain on file all working papers from the investigation.

- **Intentional Misrepresentation**
  Dual participation resulting from intentional misrepresentation may occur 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 identities;

- Receives WIC food benefits from more than one WIC clinic 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 with dual redemption as a result of participant 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. Staff must notify the participant or parent/ guardian/ caretaker of an infant or child participant of the suspected violation, required repayment, and possible sanction within 30 days of determining the outcome of the investigation. Refer to Section 1 for more information on sanctions resulting from a dual participation violation.

Recovering Funds

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.

- **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 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 CNSS. The WIC participant/parent/guardian/caretaker must make payments according to the instructions received and adhere to the agreed upon payment scheduled. Payments received by the local agency shall be sent immediately upon receipt, to:

  NC Department of Health and Human Services
  Community Nutrition Services Section, 8th Floor
  Attention: Business Manager
  1915 Health Services Way
  Raleigh, NC 27607

  To ensure compliance with the DHHS Cash Management Plan, the CNSS finance team will be responsible for coding and coordination of submission of payments with Accounts Receivable and Federal Reporting Sections of the Controllers Office.

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