

<b>Texas WIC Health and Human Services Commission</b>
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Effective April 1, 2020

Policy No. CR:03.0

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## **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, disqualification, 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 Health and Human Services  
P.O. Box 149347 Mail code 1933  
Austin, Texas 78714-9347  
Toll-free 1-800-942-3678 or  
email: [wicgeneral@hpsc.state.tx.us](mailto:wicgeneral@hpsc.state.tx.us)

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- 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 period 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.
  - D. The person appealing may be represented by an attorney or other person and shall have the opportunity to examine, prior to or

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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.