

# **Policy 301**

## **Program Integrity – Conflict of Interest**

### **POLICY**

Local WIC agencies will not perform certification duties or issue benefits or eWIC cards to themselves, any person related to them or to friends.

### **PURPOSE**

To prevent and detect conflicts of interest and employee fraud/abuse and avoid situations that are or appear to be a potential conflict of interest. To assure program integrity Local WIC Agency Staff will not determine eligibility or issue food benefits or eWIC cards to themselves, any person related to them, or friends.

### **RELEVANT REGULATIONS**

7CFR 246.4(a) (25), (26) & (27) State plan, Requirements

7CFR 246.12(t) Food delivery methods

7CFR 246.2 Definitions

### **DEFINITION**

Employee fraud and abuse: An intentional and deliberate action that violates the program, employee regulations, policies, or procedures. Actions include, but are not limited to, misappropriating benefits; altering benefits; entering false or misleading information in case records; or creating fictitious or nonexistent client files.

### **GENERAL POLICIES**

To prevent a conflict of interest, an employee shall not:

- A. Certify oneself;
- B. Certify a relative, household member, or close friend;
- C. Determine eligibility for all certification requirements (income and risk) and issue food instruments for the same participant;
- D. Refer participants to a grocery store or pharmacy owned by a family member;
- E. Have any personal, business, or financial interest/relationship between Local WIC Agency staff and grocery store or pharmacy.

### **PROCEDURES**

- A. Each local WIC agency will meet the following criteria to address situations of staff certifying and/or issuing benefits or eWIC cards to themselves, family members, other relatives, or friends. Employees shall not provide services to any person that may present a possibility of, or an appearance of favoritism or preferential treatment.
- B. WIC staff members must inform their WIC coordinator or clinic manager before the certification process begins that they (the staff member), a member of their family or other relative, or a friend, is applying for WIC.
- C. WIC staff members cannot determine any components of the eligibility for themselves, their family members, other relatives, or friends.
- D. WIC staff members will not issue benefits or eWIC cards to themselves, members of their family, other relatives, or friends.
- E. A procedure must be developed to ensure a conflict of interest does not exist when providing WIC services. The procedure must include a tracking method to document individuals who may pose a conflict of interest. Documentation of the procedure used must be available for review. See below for Local Agency Conflict of Interest & Separation of Duties Tracking Log.

- F. If separation of duties cannot be performed within the limitations of a clinic and circumstances cannot be prevented; the medical record(s) must be reviewed to ensure no conflict has occurred. The reviewer must document on the tracking log and in the medical record(s), sign and date within two weeks of WIC service(s) being provided.
- G. Local WIC agencies must review 100 percent of Conflict of Interest/Separation of Duties medical records on a monthly basis and sign medical record and tracking log. See below for Local Agency Conflict of Interest/Separation of Duties Tracking Log.
- H. The State WIC Office will review 100 percent of Conflict of Interest / Separation of Duties medical records and tracking log during each onsite Management Evaluation.

**LOCAL AGENCY CONFLICT OF INTEREST/SEPARATION  
OF DUTIES TRACKING LOG**

Purpose	Accountability of local WIC agencies to ensure Separation of Duties reviewed and monitored.
When To Use	When WIC services are provided to employees, relatives and household members, or close friends.

**Local Agency WIC Program Conflict of Interest/Separation of Duties Tracking Log**

<b>PATIENT COI/LABEL WITH DATE</b>	<b>EMPLOYEE, TITLE and RELATIONSHIP</b>	<b>EMPLOYEE DETERMINING INCOME</b>	<b>EMPLOYEE DETERMINING RISKS</b>	<b>EMPLOYEE ISSUING BENEFITS</b>	<b>COI POLICY FOLLOWED Y/N</b>	<b>DATE AND INITIAL OF 2 WK REVIEW (IF APPLICABLE)</b>	<b>DATE (S) AND INITIAL OF MONTHLY REVIEW(S)</b>

## **Policy 302**

### **Program Integrity – Separation of Duties**

#### **POLICY**

Local WIC agencies shall separate the duties for determining participant income eligibility and risk eligibility.

#### **PURPOSE**

To ensure program integrity and prevent program abuse by assigning certification duties to more than one staff member.

#### **RELEVANT REGULATIONS**

7CFR 246.4(a) (25), (26) and (27) State plan, Requirements

7CFR 246.12(t) Food delivery methods

WIC Policy Memorandum #2016-5 – Separation of Duties at WIC Local Agencies

#### **PROCEDURES**

##### **Separation of Duties**

- A. Local agencies shall establish and maintain a standard procedure for separation of staff duties at the clinic level to prevent program abuse.
- B. The procedure must include a tracking method to ensure management and supervisory staff are aware of any participant who may be a conflict of interest. Refer to Policy 301 for the Local Agency Conflict of Interest/Separation of Duties Tracking Log.
- C. It is critically important to target efforts in areas that may be susceptible to fraud or abuse. Therefore, at a minimum, the staff person who determines income eligibility and medical or nutritional risk cannot be the same person. Either person may issue food benefits. Further, having one staff person check identification or residency and another staff person conduct the remainder of the certification does not meet the regulatory intent of separation of duties requirement.
- D. If separation of duties cannot be performed within the limitations of a clinic and circumstances cannot be prevented; the medical record(s) must be reviewed to ensure no conflict has occurred. The reviewer must document on the tracking log and in the medical record(s), sign and date within two weeks of WIC service(s) being provided. Local agencies must review 100 percent of Conflict of Interest/Separation of Duties medical records on a monthly basis and sign medical record and tracking log. Refer to Policy 301 for the Local Agency Conflict of Interest/Separation of Duties Tracking Log.
- E. Retain copies of tracking logs for 4 years.
- F. The State WIC Office will review 100 percent of Conflict of Interest / Separation of Duties medical records and tracking log during each onsite Management Evaluation.

## **Policy 303**

### **Program Integrity – Participant Violations**

#### **POLICY**

Action shall be taken on all reports of misuse of WIC services/benefits.

#### **PURPOSE**

To ensure WIC program integrity and provide guidance regarding program participant violations and subsequent sanctions.

#### **RELEVANT REGULATIONS**

7 CFR 246.7 (l) – Dual Participation

7 CFR 246.23 (c)(1) – Claims against participants

KRS 194A.505 – The Assistance Program Fraud Law

KRS 194A.990 – Penalties

Administrative Regulation 902 KAR 18:031 Participant abuse

Administrative Regulation 902 KAR 4:040

WIC Program Notice of Ineligibility, (WIC-54)

#### **PROCEDURES**

##### **General Policies**

Penalties may be imposed against any intentional action of a cardholder, participant, parent or caretaker of an infant or child participant, or a proxy that violates Federal or State statutes, regulations, policies or procedures governing the Program.

- A. Participants, or the parent, caretaker or authorized proxy must be informed of rights and responsibilities in the Program, how to properly use food instruments, and authorized stores where food instruments may be redeemed. The eWIC Cardholder, Kentucky eWIC Benefits Card pamphlet, along with a current list of local authorized stores, must be provided at the time of certification.
- B. A Program violation may be committed by the participant, the participant's parent, caretaker or authorized proxy. Any suspension, disqualification or termination for violation is imposed on the participant.
- C. If a WIC Program violation is suspected or a complaint of violation is made against a participant, parent, caretaker or authorized proxy, or violation is determined, the agency/site shall:
  1. Obtain as much information as possible concerning the violation and attempt to obtain the complaint in writing. An optional form is available for a participant complaint made by a vendor. Refer to Section 900 - Vendor Management.
  2. Determine and/or document if the violation actually occurred.
  3. Discuss the violation with the participant, parent or caretaker.
  4. Document the discussion, the date of the discussion, and all other pertinent information in the participant's medical record.
  5. Provide any required written notice(s) to the participant, parent, caretaker or authorized proxy. Place a copy of the notice(s) in the participant's medical record.
- D. Participants determined to have committed a program violation including, but not limited to, the violations outlined in this section cannot be suspended for more than three (3) months.
- E. If a second program violation is suspected or has occurred, all action for the first offense must be completed and documented before any action is taken on the second offense.
- F. The State WIC Office may refer participants who repeatedly violate the WIC Program to the Office of the Inspector General (OIG) for prosecution under applicable statutes.
- G. Administrative Regulation 902 KAR 4:040 outlines the applicable sanctions for WIC program violations as well as the fair hearing procedure for persons who are terminated, suspended or disqualified from the Program. Additionally, refer to Administrative Reference, Section: Training Guidelines and Program Descriptions, "WIC Program Applicant/Participant Fair Hearing Procedures."

## **Types of Actions for Program Violations**

In all actions listed below, the WIC-54 shall serve as the notice of action and fair hearings rights. Refer to 200 Certification Appendices for more information on the WIC-54.

- A. Written Warning – A letter stating the type of violation and action that will be taken for any future violation.
- B. Suspension - The loss of food benefits for a specified period.
  1. The participant is not terminated from the program during the suspension.
  2. Must be notified in writing by providing a WIC 54, "Notice of Ineligibility," fifteen (15) days in advance with the following information:
    - a. Reason for the suspension
    - b. The time period of the suspension
    - c. The right to a fair hearing.
- C. Disqualification - Removal from WIC Program participation.
  1. Terminated from the WIC program when the disqualification is imposed.
  2. Must be notified in writing by providing a WIC 54, "Notice of Ineligibility," fifteen (15) days in advance with the following information:
    - a. Reason for the disqualification
    - b. The time period of the disqualification
    - c. The right to a fair hearing.
- D. Termination – Removal from the WIC Program
  1. Terminated from the program without fifteen (15) days advance notice.
  2. Must be notified in writing by providing a WIC 54, "Notice of Ineligibility," with the following information:
    - a. Reason for the termination
    - b. The right to a fair hearing.
- E. Claim - A request for reimbursement of the dollar amount of over issued or improperly received WIC foods determined by the value of the redeemed food benefits.
  1. The agency/site is responsible for the collection of a claim. For a violation that results in a claim:
    - a. Contact the State WIC Office to determine the amount of the claim and if collecting the claim is cost effective. Copies of supporting information shall be obtained.
    - b. If a claim is to be made, provide written notice to the participant, parent, caretaker or authorized proxy of:
      - i. The reason for the claim and the action against the participant. The WIC-54 shall serve as the notice of action and fair hearing rights.
      - ii. The dollar amount to be repaid for the over issued or improperly received foods. A check or money order payable to the Kentucky State Treasurer must pay the amount.
      - iii. The date the claim is to be paid.
    - c. The check or money order received from the participant, parent, caretaker or authorized proxy must be forwarded to the State WIC Office.
    - d. If the claim is not paid, the participant will be denied application to the Program for the number of months of food benefits that were used to calculate the claim amount, not to exceed three (3) months.

## **Types of Violations and Action to Be Taken**

- A. Suspected Violation: A written warning shall be given for the following suspected violation for which a complaint is received concerning a participant or the participant's parent, caretaker or authorized proxy:
  1. Purchasing unauthorized foods;
  2. Redeeming food benefits at an unauthorized store;
  3. Making a verbal offer of sale or exchange supplemental food or eWIC card with food benefits to another individual, group or a vendor;

4. Returning supplemental foods to a vendor for cash.
  5. Posting WIC foods, benefits and/or eWIC cards for sale in print or online, or allowing someone else to do so.
  6. Posting a WIC issued breast pump for sale in print or online, or allowing someone else to do so.
- B. Proven or Documented Violation: The following specified action shall be **taken for a proven or documented violation** by a participant or the participant's parent, caretaker or authorized proxy:
1. Redeeming food benefits before the "first day to use" or after the "last day to use." Copies of redeemed food benefits must support this.
    - a. First offense: Written warning
    - b. Second offense: Monthly pick-up of food benefits
    - c. Third offense: One month suspension
    - d. Reinstatement of two or three month issuance is at professional discretion.
  2. Redeeming food benefits which have been previously reported to the WIC agency/site as being lost or stolen and which were replaced with other food benefits. Copies of redeemed food benefits must support this.
    - a. First offense: Written warning
    - b. Second offense: Claim for the amount of improperly redeemed food benefits.
  3. Purchasing unauthorized foods.
    - a. First offense: Written warning
    - b. Second offense: One (1) month suspension
  4. Redeeming food benefits at an unauthorized store. Copies of redeemed food benefits shall support this.
    - a. First offense: Written warning
    - b. Second offense: One (1) month suspension
  5. Threatening physical abuse or verbal abuse of clinic staff or store staff.
    - a. First offense: Written warning. If possible, another person in the clinic may serve the participant.
    - b. Second offense: One (1) month suspension
  6. Physical abuse of clinic staff or store staff.
    - a. First offense: Three (3) month suspension
    - b. Second offense: Three (3) month suspension
  7. Exchanging and/or selling WIC food or food benefits with other individuals, groups or stores.
    - a. First offense: Three (3) month suspension
    - b. Second offense: Three (3) month suspension
  8. Exchanging food benefits or supplemental foods for credit, nonfood items or supplemental food in excess of those listed on the food benefits /cash value benefit.
    - a. First offense: Three (3) month suspension
    - b. Second offense: Three (3) month suspension
  9. Posting WIC foods, benefits and/or eWIC cards for sale in print or online, or allowing someone else to do so.
    - a. First offense: Written warning.
    - b. Second offense: Three (3) month suspension
  10. Dual participation in more than one (1) WIC Program or participation in both the WIC Program and Commodity Supplemental Food Program (CSFP) at the same time. Possible dual participation information is provided on-line and/or in a report. The other agency/site must be contacted immediately if dual participation is suspected. Actual participation in two (2) WIC sites shall be supported by system documentation of redeemed food benefits, if possible.
    - a. First offense: Written warning and termination from one (1) Program immediately. The continuing WIC agency shall be chosen based upon the participant's residence and/or services.
    - b. Second offense: One (1) year disqualification and termination from one (1) Program immediately and claim for the food benefits redeemed.

11. Knowingly and deliberately giving false or misleading information, or misrepresenting, concealing or withholding facts to obtain WIC foods. Must have verification to impose a claim.
  - a. First offense: Claim for improperly redeemed food benefits. Disqualifies the participant for three (3) months.
  - b. Second offense: Claim for improperly redeemed food benefits. Disqualifies the participant for one (1) year.
- C. Disqualification for one year
  1. A participant is disqualified for one (1) year when the following is assessed:
    - a. A claim of \$100 or more; or
    - b. A claim for dual participation; or
    - c. A second or subsequent claim of any amount.
  2. The disqualification may not be imposed if, within thirty (30) days of receipt of the claim letter requiring repayment:
    - a. Full restitution is made; or
    - b. A repayment schedule is agreed on; or
    - c. When a participant is under eighteen (18) a proxy is designated and approved.
  3. A participant may reapply for the WIC Program before the end of the disqualification period if:
    - a. Full restitution is made; or
    - b. A repayment schedule is agreed on; or
    - c. When a participant is under eighteen (18) a proxy is designated and approved.
- D. All other forms of WIC Program violations or suspected violations shall be referred to the State WIC Office for guidance on appropriate action.

## **Policy 304**

### **Program Integrity – Dual Participation**

#### **POLICY**

A participant must not be enrolled/participating in more than one (1) WIC Local Agency site at the same time (either in-state or out-of-state) nor in WIC and Commodity Supplemental Food Program (CSFP) at the same time.

#### **PURPOSE**

To ensure program integrity by preventing dual enrollment/participation in WIC or with the CSFP.

#### **RELEVANT REGULATIONS**

246.7(l) (1) (i) – Certification of WIC Participants

246.2 Definitions – Dual Participation

246.2 Definitions – Participant Violations

#### **DEFINITIONS**

Dual Participation – simultaneous participation in the WIC Program in one or more than one WIC clinic, or participation in the Program and in the CSFP during the same period of time.

#### **PROCEDURES**

##### **Dual Enrollment/Participation**

- A. A participant must not be enrolled/participating in more than one (1) WIC Local Agency site at the same time (either in-state or out-of-state) nor in WIC and Commodity Supplemental Food Program (CSFP) at the same time.
- B. In order to prevent dual enrollment/participation, the system performs a statewide search based on certain data to ensure the participant is not enrolled and/or receiving food benefits at another agency/site.
- C. When data entered at a site is the same as information in another site, this is a “match”.
  1. If there is a match on last name, first name, sex and date of birth an error message will be received.
  2. Each match must be reviewed to determine if it is the same person; there may be “false matches,” i.e., same pseudo numbers, ID number entered wrong.
- D. The system performs the check for dual enrollment/participation between WIC Sites:
  1. At the time a certification appointment is made;
  2. At the time a certification is indicated as an anticipated service; and
  3. At the time the issuance is requested.
- E. If there is a match, determine if the match is the same person.
  1. If not, continue certification, enrollment, and/or food benefit issuance.
  2. If the match is the same person, determine where the person(s) should be enrolled/participating.
- F. If actual ongoing Dual Participation between WIC sites (either in-state or out-of-state) has been determined, see Policy 303 Program Integrity: Participant Violations for required actions.
- G. The system performs the check for dual enrollment/participation between WIC Sites and the CSFP when a participant’s data is received from CSFP.
  1. A report, “Possible Dual Participation between the WIC Program and CSFP” is produced which lists potential dual participants between WIC and CSFP.
  2. The report is to be reviewed. Possible dual participants are to be investigated and if dual participation is determined. Refer to Policy 303 Program Integrity: Participant Violations.

## **Policy 305**

### **Program Integrity – Internal Review**

#### **POLICY**

Local WIC Agencies will conduct internal WIC operations reviews at each site at a minimum of once every two years. Local WIC Agencies will identify and correct deficiencies promptly.

#### **PURPOSE**

To ensure Program Integrity and quality WIC services by completing timely Internal Reviews of WIC operations.

#### **RELEVANT REGULATIONS**

7 CFR 246.19 (b)(6) Management Evaluation and Monitoring Reviews  
902 KAR 8:160 Local Health Department Operations Requirements  
Administrative Reference, Training Guidelines and Program Descriptions, WIC

#### **PROCEDURES**

In conjunction with quality assurance reviews, local WIC agency staff must review WIC operations in all sites. This internal review must be done a minimum of every two (2) years and include review of the following:

- A. Local Management
- B. Certification
- C. Nutrition Education
- D. Participant Services
- E. Civil Rights
- F. Food Delivery
- G. eWIC Card accountability
- H. WIC Equipment Inventory
- I. Financial Management

#### **Documentation**

- A. A form is available from the State WIC Office to document the review and findings. The local agency may develop review forms for this purpose or request State WIC Office Forms.
- B. Findings will be reviewed by the State WIC Office.
- C. Identified deficiencies must be corrected promptly by the local WIC agency.
- D. Documentation of the internal reviews must be maintained for five (5) years and available for review during onsite Management Evaluations. Refer to the Administrative Reference, Training Guidelines and Program Descriptions, WIC, for additional information.