

**Indiana WIC Program Indiana
State Department of Health**

**Applicant or Client Right of Appeal And
Uniform Rules of Procedure for Applicant
or Client Fair Hearings**

Policy

Any WIC applicant or client may appeal a decision regarding denial of eligibility, suspension or termination of benefits, or repayment of the value of food benefits. Clients have the right to a fair hearing at the local agency level with an impartial judge and to appeal the decision to the State WIC office.

Authority

Indiana Code 4-21.5-5
7 CFR Part 246.9

Procedures

- I. Continuation of benefits
 - A. Applicants found ineligible at certification (not in an active certification period) or clients who have become categorically ineligible shall not receive benefits while awaiting the hearing or the hearing officer's decision.
 - B. Clients notified of ineligibility or suspension during an active certification period who appeal within the 15 day notice of termination of benefits must continue to receive benefits until the hearing officer reaches a decision or the certification period ends, whichever comes first.

- II. Request for hearing timelines
 - A. The applicant or client must request a Fair Hearing no later than 60 days after the applicant or client receives written notification of Program denial or termination of benefits.
 - B. The Fair Hearing must be held within 21calendar days of receipt of the request for a hearing.

- C. The applicant or client must receive notice of the Fair Hearing in writing through a Right of Appeal for Applicant or Client letter in the client's preferred language.
 - 1. The letter must be received a minimum of 10 days in advance of the date, time, and place of the hearing.
 - 2. An explanation of the hearing procedure must be enclosed with the notice.

III. The Hearing Officer

- A. The Hearing Officer will be the regional member of the WIC Coordinator's Executive Committee. If the appeal is from the member's agency, another committee member will hear the claim.
- B. The Hearing Officer may administer oaths or affirmations at the Fair Hearing.
- C. The Hearing Officer shall
 - 1. ensure that all relevant issues are considered.
 - 2. request, receive, and make part of the hearing all evidence determined necessary to decide the issues being raised.
 - 3. regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing.
 - 4. order where relevant and necessary, an independent medical assessment or professional evaluation from a source mutually satisfactory to the appellant and the State agency.
 - 5. render a hearing decision based on the exclusive record.
 - 6. ensure the fair hearing be conducted in the applicant's/client's preferred language.

IV. The applicant's/client's representative

- A. The applicant's/client's representative will be allowed to be assisted or represented by an attorney or other persons including a relative or friend.

- B. The applicant's/client's representative may
 - 1. examine, prior to the hearing, the documents and records presented to support the decision under appeal.
 - 2. bring witnesses to the hearing.
 - 3. advance arguments at the hearing without undue interference.
 - 4. question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.
 - 5. submit evidence to establish all pertinent facts and circumstances in the case.
 - C. The client shall be the moving party during the hearing and shall have the burden of proof.
- V. The Hearing and Hearing records
- A. The location of the hearing, usually the local WIC agency, shall be accessible to the client.
 - B. An official report will be maintained containing the substance of what transpired at the hearing, together with all documents and requests filed in the proceedings. This will constitute the exclusive record for the hearing officer to make a final decision.
 - C. The decision by the hearing officer shall summarize the facts of the case, specify the reasons for the decision and identify the supporting evidence and the pertinent regulations or policy. The decision shall become a part of the hearing report.
 - D. Any reports or other documents resulting from the examination of records that are publicly released may not include confidential applicant or participant information.
 - E. The exclusive record of the Fair Hearing shall be retained a minimum of 3 years following the date of submission of the final expenditure report for the period to which the report pertains. These records should be made available for copying and inspection to the applicant, client or representative at any reasonable time.

VI. Fair Hearing Decisions

- A. Neither the local agency, nor the State WIC Office, is able to deny or dismiss a request for a hearing unless:
 - 1. the written or oral request for hearing is not received within the sixty (60) day period, or
 - 2. the client, or their representative, request in writing to the local coordinator that they are withdrawing their request for a hearing, or
 - 3. the client, or their representative, fails to appear without good cause at the scheduled hearing, or
 - 4. the client has been denied participation by a previous hearing and cannot provide evidence that circumstances relevant to Program eligibility have changed in such a way as to justify a hearing.

- B. The written decision of the Fair Hearing Officer must be received by the applicant or client within 45 days from the date the request for a Fair Hearing was received. The decision letter notifying the applicant/client of ineligibility/eligibility for program services will be provided in a language the client understands. At a minimum the letter will include:
 - 1. a summary of the facts of the case,
 - 2. the specific reasons for the decision,
 - 3. identification of the supporting evidence, and
 - 4. the pertinent regulations or policy.

VII. To request reconsideration by the State WIC Director

- A. The applicant, client, or authorized representative may appeal a local hearing decision to the State agency provided the request for appeal is made within 15 days of the mailing date of the hearing decision notice. The client will not continue to receive benefits while the hearing at the State agency is pending.
- B. The local agency coordinator shall forward the complete record of the hearing to the State WIC Director.

- C. The State WIC Director shall, within 15 days of the receipt of the record, notify the applicant, client, authorized representative of the results of the reconsideration.
- D. If the decision of the State WIC Director is not acceptable to the applicant, client or authorized representative they have the right to request review by a court (judicial review) in accordance with Indiana Code 4-21.5-5

VIII. Request for court review

- A. The applicant, client, or authorized representative must file the verified petition for judicial review in court within 30 days after the receipt of notice of the reconsideration by the State WIC Director.