

901. The Right to a Fair Hearing

A fair hearing is a formal procedure in which an authorized vendor or vendor applicant may appeal a State Agency decision or action which adversely affects their participation in the WIC Program. A fair hearing allows a vendor to present their case to an impartial official who will make a decision.

902. Full Administrative Reviews

The State Agency must provide full administrative reviews to vendors who appeal the following adverse actions:

- a. Denial of authorization based on selection criteria for competitive price, or for minimum stocking requirements for authorized foods
 - b. A determination that the applicant or vendor is attempting to circumvent a sanction
 - c. Imposition of a fine or civil money penalty in lieu of disqualification
 - d. Termination of a Vendor Agreement for cause
 - e. Disqualification from the Program
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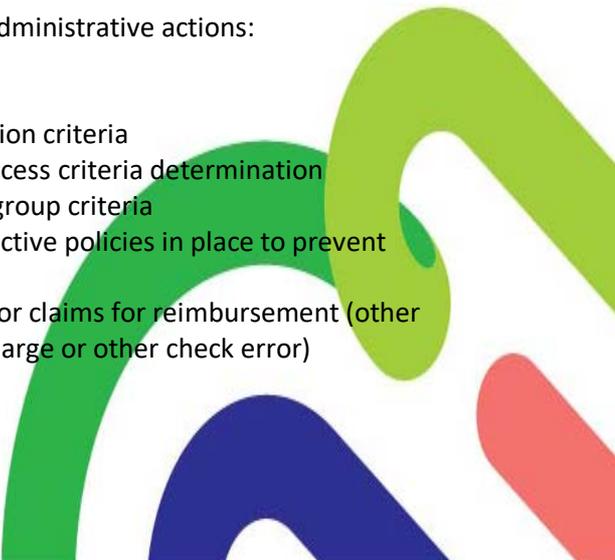
903. Abbreviated Administrative Reviews

The State Agency must provide abbreviated administrative reviews to vendors who appeal the following adverse actions:

- a. Denial of authorization based on selection criteria for business integrity
 - b. Denial of authorization based on selection criteria if the basis of the denial is a standing WIC sanction, a SNAP Program disqualification, or if the applicant was not SNAP-authorized at the time of application
 - c. Termination of a Vendor Agreement due to change in ownership or location, or cessation of operations
 - d. Disqualification based on a trafficking conviction
 - e. Disqualification based on SNAP Program civil money penalty sanction in lieu of disqualification
 - f. Civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC State Agency
 - g. Denial of application based on determination of applicant's current SNAP authorization status
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904. Adverse Actions Not Subject to Appeal

Vendors may not request fair hearings for the following adverse administrative actions:

- a. Expiration of the Vendor Agreement
 - b. Validity or appropriateness of State Agency's vendor selection criteria
 - c. Validity or appropriateness of State Agency's participant access criteria determination
 - d. Validity or appropriateness of State Agency's vendor peer group criteria
 - e. State Agency's determination of whether a vendor has effective policies in place to prevent trafficking
 - f. Disputes concerning CVC or WIC check payments and vendor claims for reimbursement (other than the opportunity to justify or correct a vendor's overcharge or other check error)
 - g. WIC disqualification based upon a SNAP disqualification
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- h. A civil money penalty imposed in lieu of disqualification based on SNAP disqualification
- i. Denial of authorization due to contractual procurement requirements to which the State Agency must abide
- j. The State Agency’s determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the approved infant formula suppliers list
- k. The validity or appropriateness of the State Agency’s prohibition of incentive items
- l. The State Agency’s determination whether to notify a vendor when an investigation reveals an initial violation for which an established pattern of violations would result in a sanction

905. Submitting a Fair Hearing Request

The State Agency will provide at least 15 days advance written notice of an adverse action, its cause, and potential impact. During this time, the vendor has the right to appeal and request a fair hearing. Two opportunities for a fair hearing will be provided: one original date and one reschedule.

Fair hearing requests must be submitted to the **Office of Administrative Hearing** within 15 days of receiving the notice of adverse action. A copy of the fair hearing request must be sent to the State Agency. Adverse actions include, but are not limited to: denial of application, disqualification, civil money penalties, etc.

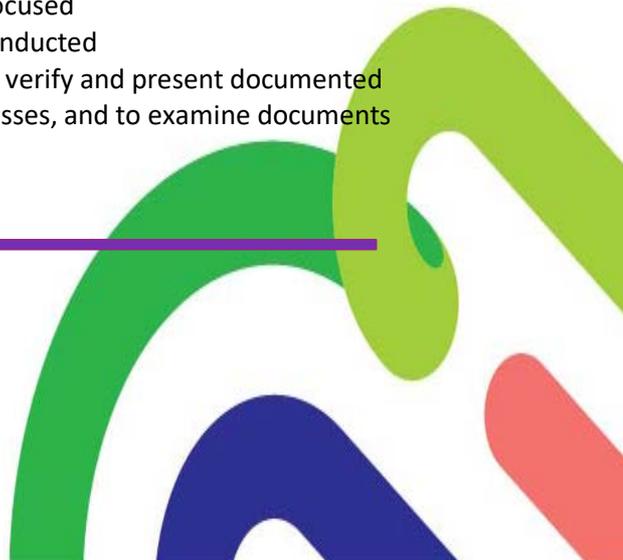
Include the following details in the fair hearing request:

- Incident which led to the request
- Persons involved
- Dates pertinent to the request
- Specific actions taken to resolve the "problem"

Forward your fair hearing request to:	Send a copy of your fair hearing request:
Office of Administrative Hearing One Judiciary Square 441 Fourth St NW Suite 540 Washington, DC 20001 (202) 442-9094	DC Health – WIC State Agency Attn: WIC Director 899 North Capitol St NE, 3 rd Fl Washington, DC 20002 Or Email it to: info.vendor@dc.gov

The fair hearing shall be scheduled within 60 days of the date the request is received. A written notice of the hearing will be sent to all parties involved at least 10 days prior to the scheduled hearing date. This fair hearing notice will contain the following information:

- Date, time and location for the hearing
- Background on the issue(s) for which the hearing is focused
- Details on the manner in which the hearing will be conducted
- Information on a vendor’s right to be represented, to verify and present documented evidence, produce witnesses, question adverse witnesses, and to examine documents and records supporting the action under appeal



906. Denial of a Fair Hearing Request

The State Agency may deny or dismiss a request for a fair hearing due to the following reasons:

- a. A request is not received within the period stated above
 - b. A vendor or representative fails to appear at the scheduled hearing without good cause
 - c. A vendor or representative withdraws the fair hearing request in writing
 - d. A vendor was denied participation by a previous hearing, and is unable to provide evidence that circumstances relevant to participation in WIC have changed in a way that justifies a hearing
 - e. Reciprocal disqualification from WIC based on disqualification from SNAP
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907. Scheduling the Fair Hearing

The fair hearing will be held within 60 days of the date on which the hearing request was received. Two opportunities to will be provide: the scheduled hearing date, and rescheduled date.

908. Conducting the Fair Hearing

The fair hearing shall be conducted by an impartial official who does not have any personal stake in the decision, and who was not directly involved in the initial determination of the action being appealed.

If a State Agency decision is upheld against the vendor, the vendor may pursue a higher review of the decision. If further reviews are unavailable and/or have been exhausted, the vendor has the right to pursue judicial review of the decision.

909. Reapplication for Authorization

Following a disqualification, a vendor must reapply to participate in the WIC Program again. The application procedure is discussed in Section 300 of the Vendor Manual.

Failure to take corrective action will result in denial of the application for authorization.

Disqualified vendors who reapply and are authorized will be monitored at least once per month for three consecutive months to ensure continued implementation of corrective action(s), and to prevent further abuse of the Program.

910. Right to File Complaints

Vendors are encouraged to contact the State Agency directly whenever problems with participants are experienced. The Vendor Complaint Form (*See Form 6*), may be used to file a written complaint. Vendors may also contact the State Agency by telephone or email (info.vendor@dc.gov), or through the DC WIC website www.dcwic.org.

The State Agency will document, investigate, and attempt to resolve each vendor complaint. This will include contacting the participant to obtain their perspective on the problem or circumstance.

The local agency where the participant is enrolled will be consulted in this process, and will be required to sanction the participant if, and when, appropriate.

911. Documentation of Complaints

The State Agency will notify vendors in writing regarding actions taken by the State and Local Agencies to resolve complaints.

912. The Right to Written Guidance

The State Agency will provide the following important information about the program to each vendor:

- A current copy of the Vendor Agreement
 - USDA Food and Nutrition Service's Program guidelines and instructions
 - A current list of authorized DC WIC foods, with updates as necessary; the DC WIC Vendor Manual, and the DC WIC Formula Guide (as needed)
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913. On-going Technical Support:

The State Agency will make every effort to ensure that each authorized vendor has a successful working relationship with the Program. Through intensive yearly training, quarterly Vendor Reports, and on-site monitoring visits, vendors will have opportunities to voice their concerns and suggestions for making the working relationship with WIC a viable one.

Vendors may contact State Agency vendor management team if there are any concerns about WIC foods, policies, or procedures.

The State Agency vendor management team is available for technical assistance on all matters related to participation as an authorized vendor.

914. Vendor Advisory Group:

The State Agency established a Vendor Advisory Group to help maintain ongoing dialogue and collaboration between the State Agency, authorized WIC vendors, representatives of retailer associations, and other entities interested in vendor management activities. The Vendor Advisory Group meets every quarter, and provides an effective mechanism for strengthening ongoing communication and collaboration between the State Agency and the retail vendor community that provides supplemental foods and supports WIC participants.

