

1.03 Confidentiality

POLICY:

Participant information will remain confidential to ensure compliance with Federal Regulations and to protect the right to privacy of WIC applicants/participants. Confidentiality requirements apply to information provided by an applicant/participant and that based on direct observation by WIC personnel.

PROCEDURE:

A. Administration or Enforcement of the WIC Program

The disclosure of WIC applicant/participant information is limited to persons directly connected with the administration or enforcement of WIC, including those investigating or prosecuting violations in the WIC Program under Federal, State or local authority. These include:

- < WIC personnel, managers and administrators who are responsible for the ongoing conduct of Program operations; and
- < Volunteers who are responsible for the ongoing conduct of Program operations and who are trained and knowledgeable of the restriction on disclosure of information.

B. WIC Program Written Agreement with a Health or Welfare Program

Specific WIC applicant/participant information may be shared with a health or welfare program in which the State Agency has entered into a written agreement (**see Policy 10.02, Coordination of Program Services**).

1. The agreement specifies that the receiving program use WIC Program information only for the purpose of establishing the eligibility of WIC applicants/participants for the program which it administers and conducting outreach.
2. The agreement contains the receiving program's assurance that it will not disclose the information to a third party.

C. WIC Applicant/Participant Request for Release of Information to a Third Party

An applicant/participant must submit a written request to the Local Agency for the release of information to be sent to a specific third party or organization, i.e. doctor.

D. Release of Information to the WIC Applicant/Participant or Parent/Guardian

1. A WIC applicant or participant may ask to see or copy his/her own record, or a parent or guardian may request access to, or a copy of, a child's or infant's record.

1.03 Confidentiality

2. Assuming that any issues regarding custody or guardianship have been settled, such persons have the right of access to the following information.

- < All information provided by the applicant/participant; and
- < A medical record (forms completed by WIC personnel or health care providers for medical/nutrition risk assessment for determination of Program eligibility).

Note: The Local Agency need not grant the participant or guardian access to any other information in the record, such as documentation of income provided by third parties or any information which serves as a staff assessment of the participant's condition or behavior, unless required by State or local law or policy.

3. The requested information may be given directly to the applicant/participant or parent/guardian or to their representative (i.e. physician or lawyer) with a signed release.
4. A **Consent for Release of Participant Information** form (see attachment #1 1.03) will be completed for the participant's chart when information is given to the applicant/participant or parent/guardian or their representative. WIC personnel releasing the information and the person receiving the information will sign the form.

E. Requested Data in Aggregate or Summary Form

Requested data in aggregate or summary form that excludes any items which would identify WIC Program applicants/participants may be granted upon approval by the State Agency.

F. Release of Information to other State WIC Agencies

The State Agency and/or Local Agency may release information to WIC agencies in other states for certification verification for the transfer of participants and/or to prevent and detect dual participation. The communication method(s) should permit the expedient release of information.

1. Local Agency staff may give information via the telephone, fax, or mail as requested by the other State without a release signed by the WIC participant. Information provided will be limited and pertinent (i.e., information contained on the VOC card).
2. Local Agency staff will document the name and phone/fax number of the person requesting the information. Local Agency staff may return a call to the requesting agency prior to releasing the information if there is any doubt that it is not a WIC agency.
3. Local Agency staff will request that any unused WV WIC food instruments be returned.
4. Local Agency staff will terminate the WIC participant in STORC because of reason "G", moved, when such information is received from the requesting State WIC agency.

1.03 Confidentiality

5. Upon detection of dual participation, the WIC participant will be terminated from one (1) WIC clinic (**see Policy 1.11, Dual Participation**).

G. Release of Information to Child Protective Services

The State of West Virginia requires that any person who knows about, or has reason to suspect, child abuse or neglect report such information to Child Protective Services, whether the information is reported by a WIC applicant/participant or is observed by WIC personnel.

1. Requests for information from Child Protective Services pertaining to an investigation of suspected abuse or neglect **which was reported by WIC personnel** to Child Protective Services may be provided by WIC personnel.
2. Release of participant information to Child Protective Services must be evaluated on a case by case basis. Contact the State Agency immediately upon receipt of a request, for guidance.

H. Request for Information Requiring Legal Counsel Assistance

In the following circumstances, the Local Agency will contact the State WIC Agency **immediately** upon receipt of a request for information in order to contact legal counsel:

- < Requests for information made by a third party, such as Child Protective Services, which might substantiate allegations of child abuse; and
- < Receipt of a court ordered subpoena or search warrant for information (**see attachment #2 1.03**).

ATTACHMENTS:

1. Consent for Release of Participant Information
2. Procedures for Responding to a Subpoena

REFERENCES:

1. WIC Regulations 246.26, Other Provisions
2. FNS Instruction 800-1, Confidentiality
3. SFP 90-008, Confidentiality Issues
4. SFP 90-076, WIC Confidentiality Instruction
5. SFP 93-040, Procedures for Responding to a Subpoena
6. SFP 93-086, WIC Volunteers and Confidentiality
7. SFP 94-070, Responding to Subpoenas and Search Warrants in the WIC Program