

**1.06** **Participant Sanctions**

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**POLICY:**

The State Agency (SA) determines uniform procedures and sanctions to be applied to cases of program abuse by participants or applicants. A sanction, which is based on the severity of the abuse may range from education and warning letter to disqualifications from the program for a maximum of twelve months. If the SA determines that program benefits have been obtained or disposed of improperly as a result of a participant violation, the SA will establish a claim against the participant for the full value of such benefits.

**PROCEDURE:**

**A. Abuses and Assigned Sanctions**

The Local Agency will assign appropriate sanctions for the following payee/proxy abuses upon instruction by the State Agency. Abuses (1-7) may also result in the repayment to the State WIC Agency the value of food benefits improperly received/disposed of. The disqualification period for these abuses may also result in disqualification of up to one year, for a monetary claim of \$100.00 or more. (see Section M)

	<u>Abuses</u>	<u>1st offense</u>	<u>Sanctions</u>
1.	Intentionally making a false or misleading statement, or intentionally misrepresenting, concealing or withholding facts to obtain benefits: to include the misrepresentation of income, residency, family size, health status falsification of medical data or health, misrepresentation of date of birth so as to (a) to appear categorically eligible, or (b) to go undetected as a dual participant.	<u>1st offense</u>	3 month disqualification
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2.	Attempting to sell or actually selling or attempting to exchange or actually exchanging food instruments, food or formula for cash or other items of value, to other persons or entities.	<u>1st offense</u>	3 month disqualification (Also a misdemeanor crime under State law if WIC formula/baby food is sold at flea market or swap meet)

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3.	Attempting to receive or actually receiving cash or credit from vendors toward purchase of unauthorized food or other items of value in lieu of authorized supplemental foods (does not include rain checks).	<u>1st offense</u>	3 month disqualification
4.	Attempting to steal or stealing food instruments from a LA or another participant (report theft to the police).	<u>1st offense</u>	3 month disqualification
5.	Dual participation (number of months disqualified from the Program depends on number of months dual benefits received).	<u>1st offense</u>	Immediate removal from one clinic <b>and</b> 1-3 month disqualification
		<u>2nd offense</u>	Immediate removal from one clinic <b>and</b> 1-3 month disqualification
6.	Altering food instruments (date, quantity, type of food, participant name, etc.) for the purpose of showing false or misleading information.	<u>1st offense</u>	1 month disqualification
		<u>2nd offense</u>	3 month disqualification
7.	Redeeming food instruments that were reported lost or stolen and subsequently replaced.	<u>1st offense</u>	1 month disqualification
		<u>2nd offense</u>	3 month disqualification
8.	Physical abuse of WIC or vendor staff. Physical abuse of WIC clinic or vendor property. Theft of WIC clinic or WIC staff property. (Report physical abuse of staff or property or theft of property to the police).	<u>1st offense</u>	3 month disqualification (w/re-application participant must change WIC clinic or vendor)
9.	Altering Prescription Formula Documentation Form (WIC-53) for the purpose of showing false or misleading information.	<u>1st offense</u>	1 month disqualification
			3 month disqualification
		<u>2nd offense</u>	
10.	Filing a false police/fire report of theft or damages to obtain replacement of lost food instruments. This sanction would apply even if FIs were not replaced.	<u>1st offense</u>	1 month disqualification
		<u>2nd offense</u>	3 month disqualification

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11.	Purchasing or attempting to purchase unauthorized foods with food instruments (substituting an unauthorized brand of same type of food, such as cheese food for an allowable cheese). Exchanging or attempting to exchange food or formula purchased with food instruments for unauthorized food or formula.	<u>1st offense</u>	Education and a warning letter
		<u>2nd offense</u>	Education and a warning letter
		<u>3rd offense</u>	1 month disqualification
12.	Purchasing or attempting to purchase incorrect size or amount of food as indicated on the food instrument.	<u>1st offense</u>	Education and a warning letter
		<u>2nd offense</u>	Education and a warning letter
		<u>3rd offense</u>	1 month disqualification
13.	Purchasing or attempting to purchase unauthorized foods with food instruments (food items not in categories on food list, such as pop and bread).	<u>1st offense</u>	1 month disqualification
		<u>2nd offense</u>	2 month disqualification
		<u>3rd offense</u>	3 month disqualification
14.	Purchasing or attempting to purchase non-food items with food instruments (diapers, cigarettes).	<u>1st offense</u>	1 month disqualification
		<u>2nd offense</u>	2 month disqualification
		<u>3rd offense</u>	3 month disqualification
15.	Threatening physical abuse of WIC or vendor staff (includes throwing something in the direction of WIC or vendor staff).	<u>1st offense</u>	Education and a warning letter <b>and</b> participant must change WIC clinic or vendor
		<u>2nd offense</u>	3 month disqualification (w/re-application participant must change WIC clinic or vendor)
16.	Giving away foods/formula purchased with WIC drafts to other persons/entities.	<u>1st offense</u>	Education and a warning letter
		<u>2nd offense</u>	3 month disqualification

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17.	Attempting to redeem or redeeming food instruments prior to or after the date specified on the food instrument.	<u>1st offense</u>	Education and a warning letter
		<u>2nd offense</u>	1 month disqualification (when in a month other than that of 1st offense)
		<u>3rd offense</u>	3 month disqualification (w/re-application issue monthly at WIC clinic)
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18.	Redeeming food instruments at unauthorized vendor.	<u>1st offense</u>	Education and a warning letter
		<u>2nd offense</u>	Education and a warning letter
		<u>3rd offense</u>	1 month disqualification
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19.	Allowing the redemption of food instruments by individuals other than the payee or authorized proxies.	<u>1st offense</u>	Education and a warning letter
		<u>2nd offense</u>	1 month disqualification
		<u>3rd offense</u>	3 month disqualification
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20.	Signing food instruments prior to purchase.	<u>1st offense</u>	Education and a warning letter
		<u>2nd offense</u>	1 month disqualification
		<u>3rd offense</u>	3 month disqualification
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21.	Verbally abusing or harassing WIC staff or vendor staff (includes throwing something though it is not directed toward WIC or vendor staff).	<u>1st offense</u>	Education and a warning letter
		<u>2nd offense</u>	1 month disqualification
		<u>3rd offense</u>	3 month disqualification

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22.	Altering WIC Identification Folder (FD-10) for the purpose of showing false or misleading information.	<u>1<sup>st</sup> offense</u>	Education and warning letter
		<u>2<sup>nd</sup> offense</u>	1 month disqualification
		<u>3<sup>rd</sup> offense</u>	3 month disqualification

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**B. Repeated Occurrence**

1. A repeated (2nd or 3rd) occurrence within one (1) year of a serious abuse (**abuses 1 - 9**) of the first offense warrants a second or third abuse sanction, whichever is appropriate, even if the latest abuse is unrelated to the previous abuse.
2. A repeated (2nd or 3rd) occurrence within one (1) year that does not involve fraudulent behavior on the part of the payee/proxy (**abuses 10 - 22**) requires that a sanction only be imposed for second or third occurrences of the same abuse.

**C. Situations Not Addressed**

Contact the State Agency for guidance when confronted with a situation not addressed.

**D. Proxy Abuse**

Inform the payee that any abuse committed by their proxy(ies) may result in the termination of their benefits and/or civil criminal prosecution.

**E. Anonymous Tips of Program Abuse**

Anonymous tips of alleged abuse must be investigated, but if not verified a sanction may not be imposed. In such cases, counseling may be the only appropriate action taken.

**F. Documentation of Program Abuse**

Program abuse will be documented and maintained at the Local Agency.

1. Documentation will be maintained in the participant's file for one (1) year.
2. Documentation may include:
  - < payee name and WIC identification number;
  - < type and date of abuse;

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- < witnesses;
  - < findings of the investigation; and
  - < all verbal and written communications with the payee.
3. As time and staff are available, scan the classified ads in the newspapers and the “Trader’s Guide” type local papers to check “Formula for Sale” ads. Local staff should check via the , STORC system to determine if this is a WIC participant in their area. Staff may then call the number listed and ask general questions regarding the ad such as price, amount, expiration date, name and address of person selling the formula.
- a.. Verify if the seller is a WIC participant who was issued this type of formula by reviewing the Food Instrument History.
  - b. Forward all information regarding this abuse to the State WIC Agency Food Delivery Coordinator for determination of sanction.
  - c. If the seller is a WIC participant who was issued and redeemed FI’s for formula, the State Agency will advise the Local Agency Director to issue a Disqualification for Program Abuse letter to the participant. The “preponderance of evidence” suggests that this is WIC formula; therefore, it is the responsibility of the participant to prove it is not WIC formula.
  - d. The SA will calculate the amount owed the Program by obtaining the redemption price of the formula or food at the time the FI’s were redeemed. A letter will be sent to the participant which will detail the amount that must be repaid to the West Virginia State WIC Program. If this amount exceeds \$100.00, the disqualification period will be a mandatory twelve (12) months.  
*Note: the SA may decide not to impose a mandatory disqualification if, within 30 days of receipt of letter demanding repayment, full restitution is made or a repayment schedule is agreed on.*
  - e. If the participant is an infant, child, or under age 18, upon approval from the State agency, a proxy may be designated in place of payee being disqualified for continued benefits.

### G. Local Agency Log of Participant Sanctions

The Local Agency Director will log all participant sanctions (**see Attachment #1 1.06**).

*Exception (optional): A warning letter sent for early redemption is not required to be logged when the State Agency notification is maintained on file with the log.*

### H. Warning Letter for Program Abuse and Disqualification Letter for Program Abuse

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A warning or disqualification letter, whichever is appropriate, will be issued to the payee by the Local Agency Director. A copy must be sent to the State Agency and a copy placed in the participant file.

*Exception: Do not send a copy of the warning letter for early redemption to the State Agency.*

1. **A Warning Letter for Program Abuse** may be printed by selecting **STORC Notifications and Mailing Labels Screen**.
  - a) The warning letter will describe the abuse, the possibility of disqualification and prosecution if the abuse is repeated and the correct procedure to follow.
  - b) The warning letter must be issued within ten (10) days of the Local Agency or State Agency receipt of the documentation of abuse.
  - c) The letter must be signed by the Local Agency Director.
2. **The Disqualification Letter For Program Abuse** may be printed by selecting **STORC Notifications and Mailing Labels Screen**.
  - a) The disqualification letter will state the reasons for this action and the payee's right to request a fair hearing.
  - b) The payee must receive a written advance notice not less than fifteen (15) days prior to disqualification.
  - c) The letter must be signed by the Local Agency Director.

### I. **Prior to Disqualification**

Prior to disqualification of a payee for Program abuse, the Local Agency must submit a written account of events, and copies of the **Participant Agreement (WIC-05)**, **Request for Proxy Form (WIC-02)** and signed food instrument stubs that pertain to the abuse to the State Agency.

1. The Local Agency will only disqualify the payee when advised to from the State Agency.
2. The effective date of disqualification will be at least eighteen (18) days from the date of the disqualification letter to allow for the mailing period.

### J. **Fair Hearing**

A disqualified payee will be given full opportunity to appeal a disqualification (**see Policy 1.07, Fair Hearing Policy for Applicants and Participants**).

1. A payee who appeals the disqualification within the fifteen (15) day advance adverse

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action notification period will continue to receive benefits until the Hearing Officer reaches a decision, or the certification period expires, whichever occurs first.

2. A payee must adhere to the Program rules while awaiting a hearing decision. Other sanctions that are applied when abuses are committed may be in force while that person participates, pending a hearing decision.
3. A payee may not appeal sanctions that do not affect their Program eligibility.

### **K. Reinstatement**

There is no automatic reinstatement to the Program for a disqualified payee when participation ends as a result of Program abuse.

1. Disqualified individuals may apply for benefits at the end of the disqualification period as a new applicant, not a reinstatement (reinstatement in STORC since previously on WIC).
2. If waiting lists are in place, this applicant is placed at the end of the list.
3. The State agency may permit a participant to reapply for the Program before the end of a mandatory disqualification period if full restitution is made or a repayment schedule is agreed upon or, in the case of a participant who is an infant, child, or under age 18, the state agency approves the designation of a proxy.
4. A complete assessment must be performed to determine eligibility.

### **L. Disqualification in Error**

When the Local Agency Director determines that a payee has been disqualified in error, the participant(s) will be reinstated **immediately**. Retroactive benefits may not be issued to a payee disqualified in error.

### **M. Monetary Claims**

A Payee who misrepresents their circumstances in order to receive food benefits may be required to pay the cash value of improperly received benefits to the State. Whenever the SA establishes a claim of \$100.00 or more, the SA will disqualify the participant for one year.

### **REFERENCES:**

1. WIC Regulations 246.12, Food Delivery Systems
2. FNS Instruction 803-9, Actions Which Affect Participation in Mid-Certification
3. Article 7, Chapter 16 of the code of West Virginia 1931, Section 8

### **ATTACHMENTS:**

1. Local Agency Log of Participant Sanctions