

Appeals

- I. Agency Conference & Fair Hearings (participant or applicant appellants).
 - a. Availability of hearings: The state agency shall provide a hearing procedure through which any individual may appeal a state or local agency action which results in a claim against the individual for repayment of the cash value of improperly issued benefits or results in the individual's denial of participation or disqualification from the program.
 - b. Request for hearing. A request for a hearing is defined as any clear expression by the individual, the individual's parent, caretaker, or other representative, that he or she desires an opportunity to present its case to a higher authority. The State or local agency shall not limit or interfere with the individual's freedom to request a hearing. Hearing requests by appellants can be made verbally, or in writing and delivered or sent to the State or local agency.
 - i. Requests for hearings must be made within 60 days of the adverse action.
 - ii. Continuation of Benefits. Participants who appeal the termination of benefits within 15 days of being notified of the adverse action must continue to receive program benefits until the hearing official reaches a decision or the certification period expires, whichever occurs first. This does not apply to applicants denied benefits at initial certification, participants whose certification period has expired or participants who become categorically ineligible for benefits. Applicants who are denied benefits at initial certification, or participants who become categorically ineligible during a certification period (or whose certification period expires), may appeal the denial or termination, but must not receive benefits while awaiting the hearing.
 - c. When possible, an Agency Conference should be held to resolve the problem on the local level. Appellants may be encouraged to attempt to settle the dispute in an Agency Conference before requesting a Fair Hearing. An Agency Conference is defined as problem resolution discussion with the supervisory personnel of the clinic/local agency and the participant/applicant. The state agency will be represented at all Agency Conferences. In participating in the Agency Conference, the participant agrees to try and resolve the problem. If the Agency Conference does not resolve the problem to the appellant's satisfaction, or if the appellant does not want an Agency

Conference, she/he has the right to a Fair Hearing with the State Department of Health and Human Services hearing officer.

- d. The appellant must be informed that the Agency Conference is optional and that they have a right to a Fair Hearing instead.
 - e. The Agency Conference will be held within two (2) weeks of the date of request.
 - f. Agency Conferences are normally held at the local agency location.
 - g. Both sides shall have the opportunity to present evidence and witnesses.
 - h. The Conference shall be conducted without unduly complex or legalistic procedures, taking into consideration the appellant's background and education.
 - i. Generally the local WIC director makes the final decision after consultation with the state WIC program manager and other state or local agency representatives and/or legal counsel. The appellant is notified of the decision within 15 days.
 - j. If the appellant is not satisfied with a conference decision, she/he may request a Fair Hearing; this request must be made within sixty (60) days from the effective date of the adverse action taken by the local agency. See Section III, *Agency Conference and Fair Hearing Procedures* for Fair Hearing procedures.
- II. Notification of Appeal Rights. The local agency shall provide to all applicants and participants statements on appropriate forms that outline their right to an Agency Conference or Fair Hearing, including instructions for making the appeal.
- a. Copies of the Agency Conference/Fair Hearing form shall be given to each person at the time of denial of participation or termination. These provisions are included in the notices printed from the VISION system.
 - b. This notification is not to be given at the expiration of a certification period.

- c. The notification will inform applicants and participants of their right to examine public documents about the decision and be represented by a relative, friend, legal counsel, or other spokesperson.