Maine Center for Disease Control and Prevention
WIC Nutrition Program

Effective: October 1, 2012 Policy No. OM-7
Revised: October 1, 2017

Participant Fraud and Abuse of WIC Funds and Services

Authority

7 CFR §246.12(u); §246.23; §246.9
22 MRSA §255 and §1951
10-144 CMR Chapter 286, § II.I

Policy

1. State and Local Agency staff shall immediately investigate all claims of participant fraud and abuse of WIC funds and/or services.
2. Any findings of participant abuse shall be sanctioned appropriately.
3. WIC food benefits are intended only for the enrolled WIC participant who is a resident of the state of Maine.

Procedures

1. Examples of participant fraud and/or abuse of the Maine CDC WIC Nutrition program include but are not limited to the following:

   1.1 Participating in more than one WIC program simultaneously (dual participation; see Policy OM-9 Dual Participation).

   1.2 Providing fraudulent information, or intentionally making a false or misleading statement, or intentionally misrepresenting, concealing or withholding facts to obtain or retain benefits, including but not limited to: information concerning income, family size, residence and/or medical history.

   1.3 Failing to provide proof of the ending of a pregnancy, other than by live birth, within 30 days of receiving benefits based on that pregnancy.

   1.4 Redeeming WIC checks at a vendor (store, farm stand or farmers' market) that is not authorized to accept them.

   1.5 Trafficking of or the attempt to traffic WIC food instruments, breastpumps or WIC food items, including but not limited to selling, exchanging or offering to sell, or

exchange of WIC food instruments, breast pumps, or WIC food items to other individual parties for cash, credit, non-food items, or unauthorized food items.

1.6 Trafficking of or the attempt to traffic WIC food instruments or WIC food items for cash from vendors, or credit from vendors toward the purchase of unauthorized foods, controlled substances or other items of value in place of approved foods.

1.7 Trafficking of or attempting to traffic WIC food instruments, WIC food items or breast pumps, by offering, selling, or attempting to sell in print or online, or by any other method.

1.8 Returning WIC foods to a vendor for cash, credit or non-WIC foods.

1.9 Giving away WIC food instruments or foods obtained with WIC food instruments, instead of returning them to a local WIC agency.

1.10 Forging, altering, tampering with or making changes to a WIC food instrument or medical formula voucher.

1.11 Speaking to WIC staff, vendor personnel, and/or other WIC participants in a threatening or derogatory manner.

1.12 Threatening to harm or physically harming WIC clinic staff, vendor personnel and/or other WIC participants.

1.13 Intentionally damaging WIC clinic or vendor property.

1.14 Any other violation of state or federal statutes or rules.

2. The local agency director shall contact participants who are suspected of selling a WIC food, formula or breastpump.

2.1 Contact with the authorized representative shall be made immediately upon notification of the potential sale.

2.2 A letter addressing the online sale shall be sent to the last known mailing address if in-person and phone contact cannot be made immediately.

2.2.1 Sample letter addressing online sales is included in Appendix OM-7-A.

3. If the State Agency determines that program benefits have been obtained or disposed of improperly as the result of participant abuse, the State Agency shall establish a claim against the participant for the full value of such benefits.

3.1 For all claims, the State Agency shall issue a certified letter (see Appendix OM-7-B Sample Participant Abuse Letter) requiring repayment, including:

3.1.1 Notification that the participant shall pay full value of the claim or request a repayment schedule which specifies repayment frequency and amount;

3.1.2 A warning statement that failure to pay the claim or any subsequent violation shall result in disqualification;

3.1.3 Information on the process to appeal the decision requiring repayment of the claim, including the procedures to follow to obtain a fair hearing, pursuant to DHHS Administrative Hearing Rule, Chapter 1 (see Appendix OM-17-A Notification of Appeal Procedure).

3.2 If full restitution is not made, or a repayment schedule is not agreed on within thirty (30) days of receipt of the letter, the State Agency shall take additional collections action until restitution is made or a repayment schedule is agreed upon, unless the State Agency determines that further collections action would not be cost effective.

3.2.1 Cost benefit analysis shall include number of State Agency and/or local agency staff hours, legal expenses, total value of claim involved, and/or the nature of the fraudulent actions.

3.3 Failure to pay the claim shall result in:

3.3.1 Referral to the DHHS Fraud Investigation and Recovery Unit

3.3.2 Mandatory disqualification

3.4 Restitution may not include offsetting the claim against future program benefits, even if agreed to by the participant or the parent or caretaker of an infant or child participant.

4. The State Agency shall document the disposition of all participant claims using the standard repayment form (Appendix OM-7-C). In addition to establishing a claim, the State Agency must determine whether participant disqualification is required pursuant to 7 CFR §246.12(u)(2).

4.1 At the time the State Agency notifies a participant of disqualification, the State Agency shall advise the participant of the procedures to obtain a fair hearing (See policy OM-16 Fair Hearing and Appendix OM-16-A Notification of Appeal).

4.2 The State Agency shall require mandatory one year disqualification whenever one or more of the following is assessed:

4.2.1 A claim of greater than or equal to $100

4.2.2 A claim of dual participation

4.2.3 A second claim or subsequent claim of greater than or equal to $2.00

4.3 The State Agency may decide not to impose a mandatory disqualification if:

4.3.1 Within thirty (30) days of receipt of the letter requiring repayment, full restitution is made;

4.3.2 A repayment schedule is agreed on; or

4.3.3 In the case of a participant who is an infant, child or under age 18, the State Agency approves the designation of a proxy

4.4 The State Agency may permit a participant to reapply for the Program before the end of a mandatory disqualification period in the following circumstances:

4.4.1 Full restitution is made or a repayment schedule is agreed upon or,

4.4.2 In the case of a participant who is an infant, child or under age 18, the State Agency approves the designation of a proxy.

4.5 The State Agency may suspend participants from the Maine CDC WIC Nutrition Program for up to three (3) months when notified, by local agency reports or other sources, of the following circumstances:

4.5.1 When a participant or any other person acting on behalf of the participant speaks to clinic staff, vendor personnel, and/or other WIC participants in a threatening, discriminatory or derogatory manner.

4.5.2 When a participant or any other person acting on behalf of the participant physically assaults clinic staff, vendor personnel, and/or other WIC participants. Local Agency staff shall also contact the local police and the State Agency in such an instance.

4.5.3 When a participant or any other person acting on behalf of the participant intentionally damages WIC clinic or vendor property.

4.5.4 When a participant or any other person acting on behalf of the participant alters a WIC food instrument, including the client or authorized representative names, authorized representative or proxy signatures, identification numbers, dates or quantities or types of foods, or an eWIC card, including the personal account number (PAN).

4.6 In all cases of disqualifications from the program, the participant must receive written notice of disqualification not less than fifteen (15) days before the disqualification.

4.6.1 The State Agency shall send written notice of disqualification from the program to the participant.

4.6.2 A copy of the written notice shall be maintained in the participant's electronic record.

4.6.3 The Notification of Appeal Procedure form (Appendix OM-16-A) must be completed, including documentation of the specific program abuse, and sent along with the written notice of disqualification to the participant.

5. The State Agency shall refer cases of program fraud and abuse of food benefits and/or services to the DHHS Fraud Investigation and Recovery Unit when fraud and/or program abuse is suspected or confirmed.

5.1 Local Agency staff shall report all cases of suspected fraud and/or program abuse to the State Agency, including all known details of the situation.

5.2 Suspected fraud/abuse of the program which shall be referred includes but is not limited to:

5.2.1 Sale of, or intent or attempt to sell WIC foods

5.2.2 Sale of, or intent or attempt to sell WIC FIs (including eWIC benefit cards and/or WIC checks)

5.2.3 Sale of, or intent or attempt to sell WIC loaner electric breastpump(s)

5.2.4 Refusal to return WIC loaner electric breastpump when authorized loaner period has expired

5.2.5 Intentional misrepresentation of family size and/or income

5.2.6 Intentional misrepresentation of Maine residence

5.2.7 Intentional misrepresentation of relationship to WIC participant

5.2.8 Continued redemption of WIC FIs by a parent/authorized representative for a child who is no longer in the parent or authorized representative's care or custody

5.2.9 Continued redemption of WIC FIs after a participant has moved out of the state

5.2.10 Misrepresentation of being pregnant, less than 6 months postpartum, or breastfeeding

5.3 All actions taken as a result of participant abuse must be documented in the participant's file. This includes, but is not limited to, verbal warnings, written warnings, and/or disqualification.

5.4 The State agency shall send the participant a warning letter before imposing sanctions. If a warning letter is sent, the local agency must send a copy of the letter to the State Agency.