

Maine Center for Disease Control and Prevention

WIC Nutrition Program

Effective: October 1, 2012

Policy No. OM-8

Revised: October 1, 2018

Parental and Custodial Rights

Authority

22 MRSA §255 and §1951

Policy

1. The authorized representative for a child enrolled in the Maine CDC WIC Nutrition Program may be a parent (mother or father), a foster parent, legal guardian, or relative who have been granted custodial care of a child.
2. Only parents or guardians who have rights of contact may be named as authorized representative for minor child participants.
3. In cases of allocated/shared parental rights, regardless of the amount of time that a parent has visitation of his/her children, either parent may apply and be certified to receive Maine CDC WIC benefits.
4. When a change in custody occurs, official documentation shall be presented in order to update authorized representative information.
5. Maine CDC WIC Nutrition Program benefits follow the child/children. Parents are responsible for fair distribution of food benefits as specified in court-orders.

Procedure

1. In allocated/shared custodial rights situations, the parent/guardian who applies first shall be authorized as the child/children's representative.
 - 1.1. If a parent named as authorized representative for a minor participant(s) decides to discontinue participation in the program, the other parent with allocated/shared parental rights may choose to apply for WIC benefits for the minor participant(s).
2. In allocated/shared custodial rights situations, the parent/guardian who serves as the authorized representative shall be expected to share the benefits between households to accurately reflect the actual allocation of responsibility between parents for feeding the child/children.
 - 2.1. Custodial rights arrangements as stated in court-ordered paperwork shall determine the allocation of responsibility between parents/guardians for feeding the child/children.

- 2.2. In the event that two parents/guardians who share custodial rights request WIC benefits for a child/children, the parent/guardian named as having primary residence for the child will be the WIC authorized representative.
3. Proof of custodial changes must be presented before a change in WIC authorized representative is finalized. Official documentation includes, but is not limited to, the following:
 - 3.1. Court ordered custody papers
 - 3.2. Guardian ad litem signed letter
 - 3.3. DHHS Office of Child and Family Services Social Worker documentation
 - 3.4. Birth certificate (used when one parent has chosen to discontinue child's participation in the program and the other biological parent chooses to apply for that child)
4. Local Agency staff shall follow the steps below when determining benefit reissuance in the case of custodial changes:
 - 4.1. Verify custody change with appropriate documentation.
 - 4.2. If child is in a household with other children not changing custody or their mother who is no longer the custodial parent, change the Household ID.
 - 4.3. Change Authorized Representative, proxy(s) and demographic information to reflect new custody arrangement.
 - 4.4. Determine if child has outstanding benefits.
 - 4.4.1. If no, issue benefits to new authorized representative.
 - 4.4.2. If yes, establish contact with previous authorized representative and do the following:
 - 4.4.2.1. Inactivate eWIC card account immediately and reissue outstanding benefits to new authorized representative eWIC card account, or
 - 4.4.2.2. Determine if paper food instrument benefits can be returned. Explain to previous authorized representative that benefits are to follow the child and cannot be cashed as the child is not in their custody.
 - 4.4.2.2.1. If benefits can be returned, wait one calendar week for their return. Formula can be provided from the Local Agency's supply, if needed and available. Referrals should be made to local area resources if food is needed immediately.
 - 4.4.2.2.2. When benefits are returned, issue replacement benefits for the remainder of the issuance month to the new authorized representative.

- 4.4.2.3. If unable to contact previous authorized representative or benefits are not returned, send a letter to last known address stating that the eWIC account has been deactivated (those with eWIC benefits) or that benefits follow the child and need to be returned (those with paper food instruments). See Appendix OM-8-A Sample Letter for Custody Change.
 - 4.4.2.3.1. For those with outstanding paper food instruments, issue one month of benefits to the new authorized representative for the child, and document the situation in a General Note in the WIC electronic record. Do not void outstanding benefits issued to previous authorized representative. Monitor outstanding benefits for redemption.
 - 4.4.2.3.2. If benefits are redeemed, see OM-7 Participant Abuse for process to recover funds.
 - 4.4.2.3.3. Change benefits issuance frequency to tri-monthly when 30 days after Last Date to Use (LDTU) of last outstanding benefits has elapsed, as vendors have 30 days after the LDTU to process the WIC check.
- 5. The Local Agency shall inform the State Agency in situations when disagreements about allocation of benefits and feeding responsibility between parents/guardians cannot be resolved.
- 6. Local Agency staff shall request authorized representatives to promptly notify the Local Agency when changes in custodial rights arrangements which affect the fair distribution of food benefits have occurred.