

## Section III: State Agency Procedure Manual

### IX. State Organization and Management

#### A. Appeals by Local Programs/Fair Hearings

##### Purpose

Local WIC programs have the right to request a fair hearing review from the State WIC Office due to notification of certain adverse actions.

##### Policy

The Montana WIC Program will provide, upon request, a full administrative review fair hearing to a local agency who has received adverse actions.

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#### 1. State Responsibilities

- The State WIC Office will advise the aggrieved WIC agency of their rights under federal regulations.

#### 2. Administrative Review Request

- The State WIC Office, upon request for an administrative review (hearing) by a local WIC program, will schedule an administrative review and inform the local WIC program of the time and place, giving the local WIC program 10 days advance notice
- An administrative review will be provided by request if the adverse action included:
  - Denial of application
  - Disqualification
  - Suspension, and/or
  - Sanctions that affect a local agency's participation
- An administrative review will not be provided if the action is the result of:
  - The expiration of the agreement with the local agency, or,
  - Montana state procurement procedures/restrictions are applicable to the process of local agency selection.
  - The Office of Fair Hearings is part of the Department of Health and Human Services (DPHHS) Office of Administrative Hearings. They are located at PO Box 202922, Helena, MT 59620, and their contact phone number is (406) 444-2470, or email [hsofh@mt.gov](mailto:hsofh@mt.gov).

#### 3. Administrative Review Decision

- The administrative review will be conducted in Helena and the local agency will be informed in writing of the decision and its basis within 60 days of the date of the request for a hearing. The hearing will be conducted by a fair and impartial official, whose decision will rest solely on the evidence presented at the administrative review and statutory and regulatory provisions governing the WIC program.

#### 4. Administrative Review Procedure

- The procedure for the administrative review will provide at a minimum to the local WIC program:

- Ten (10) days advance notice of the time and place of the administrative review to provide all parties involved with enough time to prepare for the hearing.
- The opportunity to present its case.
- The opportunity to confront and cross-examine adverse witnesses.
- The opportunity to be represented by counsel, if desired.
- The opportunity to review the case record prior to the administrative review; and
- The opportunity for two rescheduled hearing dates.

**5. Adverse Actions**

- Adverse action taken by the State WIC Office will be postponed until an administrative review decision is reached. All appellants denied program benefits at the State level will be informed in writing, along with the decision of the administrative review officer, of their right to appeal the decision to a District Court within 30 days of receiving the written notice.

**6. Advance Notice**

- When possible, local programs will be given 60 days advance notice of any adverse action, including written notice of the action, cause(s) for, and the effective date of the action.