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Oregon Administrative Rules
Department of Human Services, Public Health Division
Chapter 333

DIVISION 53

**SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS
AND CHILDREN (WIC) PARTICIPANT ADMINISTRATION**

333-053-0030

Description of WIC Program

(1) The WIC program is a federally funded program established in 1972 by an amendment to the Child Nutrition Act of 1966. The purpose of the WIC program is to serve as an adjunct to health care by providing: nutrition education and counseling; nutritious supplemental foods; health screening and referral services to pregnant and breastfeeding women, infants and children in certain high-risk categories.

(2) Federal regulations governing the WIC program, 7 CFR § 246, require adoption and implementation of standards and procedures to guide the state's administration of the WIC program. These regulations also define the rights and responsibilities of participants.

(3) The Department of Human Services (DHS) administers the WIC program in the state of Oregon.

(4) Any participant who receives benefits from the WIC program shall comply with these rules. Failure to comply with these rules shall result in sanctions.

(5) WIC program participation may include participation in the Farm Direct Nutrition Program (FDNP).

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

333-053-0040

Definitions

(1) "Adjunctively income eligible" means an applicant or participant is eligible for WIC if they are:

(a) Certified and fully eligible to receive benefits for the:

(A) Food Distribution Program on Indian Reservations (FDPIR);

(B) Food Stamp Program;

(C) Medicaid/Oregon Health Plan (OHP); or

(D) Temporary Assistance for Needy Families (TANF).

(b) Determined presumptively eligible for either TANF or Medicaid/OHP (pending completion of that program's process); or

(c) A member of a household with:

(A) A Food Stamp recipient;

(B) A pregnant woman or infant currently on Medicaid/OHP; or

(C) A TANF recipient.

- (2) “Applicant” means any pregnant woman, breastfeeding woman, post-partum non-lactating woman, infant or child (through the end of the month they turn five years of age) or their guardian or proxy who applies to receive WIC benefits.
- (3) “Authorized food” means any supplemental foods listed on the WIC Authorized Food List or the food instrument.
- (4) “Authorized shopper” means:
- (a) The participant or any person designated by the participant who has signed the WIC ID card on the second line (second authorized signer);
- (b) A documented proxy;
- (c) A participant's caretaker or the caretaker's designee; or
- (d) Any DHS representative posing as a participant or participant designee as authorized by DHS.
- (5) “Certification” means the implementation of criteria and procedures to assess and document each applicant's eligibility for participation in the WIC program.
- (6) “CFR” means Code of Federal Regulations.
- (7) “Claim” means a demand for repayment for intentional misuse of WIC or FDNP benefits.
- (8) “CSFP” means the Commodity Supplemental Food Program.
- (9) “Department” means the Department of Human Services of the state of Oregon.
- (10) “DHS” means the Department of Human Services.
- (11) “Disqualification” means termination of participation in the WIC program and cessation of WIC benefits due to an intentional participant violation for a specific amount of time. Participants may reapply for benefits at any time after the sanction period is over.
- (12) “Dual participation” means simultaneous participation in more than one WIC program (more than one state or more than one local agency within Oregon) or participation in the WIC program and in the CSFP at the same time.
- (13) “Farm Direct Nutrition Program” or “FDNP” means the Farmers’ Market Nutrition Program administered by the United States Department of Agriculture (USDA), Food and Nutrition Services and implemented by the state of Oregon, DHS.
- (14) “Food instrument” means a negotiable financial instrument by which WIC benefits are provided to participants. Food instruments are also referred to as “checks,” “cash value vouchers (CVV)” or “vouchers.”
- (15) “Hearing request” or “request for a hearing” means any clear expression, by an individual or the individual's parent, caretaker, or representative that they want a higher authority to review the adverse action that was taken against them by the local or state WIC program.
- (16) “Local agency” means:
- (a) A public or private non-profit health or human services agency that provides health services, either directly or through contract with DHS to provide services, in accordance with 7 CFR § 246.5;
- (b) An Indian Health Service unit in contract with DHS to provide services;
- (c) An Indian tribe, band or group recognized by the Department of the Interior which operates a health clinic or is provided health services by an Indian Health Service unit; or
- (d) An intertribal council or group that is an authorized representative of Indian tribes, bands or groups recognized by the Department of the Interior, which operates a health clinic or is provided health services by an Indian Health Service unit.

(17) "Offense" means any unintentional action of a participant, parent or caretaker of an infant or child participant, or a proxy, which violates federal or state statutes, regulations, policies or procedures governing the WIC program.

(18) "Participant" means any pregnant woman, breastfeeding woman, post-partum non-lactating woman, infant or child under the age of five years old who has been certified to receive benefits from the WIC program.

(19) "Participant's caretaker" means a person who has significant responsibility for providing food to the infant or child. The caretaker is usually part of the family unit, for example the parent or legal guardian of the infant or child.

(20) "Proxy" means a third person (besides the participant or authorized individual whose signature appears on the WIC ID card) temporarily authorized to pick up or shop with WIC food instruments on behalf of a participant.

(21) "Restitution" means reimbursement to the Department of the cash value of the benefits that were obtained or disposed of improperly as the result of an intentional participant violation.

(22) "Sanction" means a penalty imposed by the state WIC Program due to an intentional misuse of program funds or other intentional violation including, but not limited to, misrepresentation of information provided to determine program eligibility.

(23) "Second authorized signer" means the individual who signed the WIC ID card on the second line.

(24) "Service area" means a local program or sub-division of a local program that encompasses a specific geographic area.

(25) "Termination from program" means a participant's file is closed and benefits cease for any reason including, but not limited to, lack of eligibility, no longer breastfeeding, or transferring out of state.

(26) "Trafficking" means the buying or exchanging of WIC food instruments or FDNP checks for alcohol, cash, credit, tobacco or any other non-food item.

(27) "Violation" means an intentional action of a participant, parent or caretaker of an infant or child participant, or a proxy that violates federal or state statutes, regulations, policies or procedures governing the WIC program.

(28) "WIC program" or "WIC" means the Special Supplemental Nutrition Program for Women, Infants and Children authorized by Section 17 of the Federal Child Nutrition Act of 1966, as amended, 42 U.S.C. § 1786.

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

333-053-0050

Participant Eligibility

(1) In order to be eligible for the WIC program, at the time of application an applicant must:

(a) Be a pregnant woman, a breastfeeding woman less than one year after delivery, a non-lactating, post-partum woman less than six months after delivery, or a child through the end of the month he/she turns five years of age;

(b) Reside within the jurisdiction of the state of Oregon and must either reside within the local agency service area or within the Indian State jurisdiction;

(c) Meet the state's income eligibility criteria, at the time of application and at the time of subsequent certifications; and

(d) Be at nutritional risk as defined by the Department.

(2) In order to establish eligibility, a state or local agency shall require proof of residency and income and may require verification of pregnancy.

(3) Participants may only be enrolled in one local agency or clinic within a local agency in Oregon at a time.

(4) Participants may be enrolled in only one state WIC program at a time. If a participant moves to a new state, they are no longer eligible to receive Oregon WIC benefits.

(5) A participant may be terminated from the WIC program because they are no longer eligible.

(6) A participant may be disqualified from the WIC program for violations of program rules.

(7) A participant may voluntarily withdraw from participating in the WIC program at any time.

(8) To be eligible to receive FDNF benefits, the individual must currently be receiving benefits under the WIC program and belong to any of the following categories on the date of FDNF benefit issuance:

(a) Breastfeeding woman;

(b) Child one to five years of age;

(c) Infant 6-12 months (born before May 1 of the current year);

(d) Post-partum non-breastfeeding woman; or

(e) Pregnant woman.

(9) A participant will be informed of and required to verify understanding of the rights and responsibilities of WIC participation at the time of their eligibility certification.

(10) If the participant has been terminated due to a participant violation, it is considered a disqualification and the participant can reapply for benefits at any time after the sanction period is over.

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

333-053-0060

Participant Information

(1) Participants shall provide accurate information as part of the certification process.

(2) State or local WIC staff may verify any of the information provided by the participant.

(3) The WIC program may share information about participants with other public health programs and Oregon Head Start Programs. This information will only be used to access other health services and assess the effectiveness of those services.

(4) Information concerning eligibility shall be shared with another WIC clinic or agency if the participant moves from one service area to another or to a different state.

(5) Participants may be asked about their voter registration status and will be given the opportunity to register to vote at the local agency. Participants may decline to provide this information. Receipt of benefits will not be affected by answers to voter registration questions.

(6) A second authorized signer may attend nutrition education appointments, bring in the infant or child participant for certification appointments and spend WIC vouchers using the WIC ID card.

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

333-053-0070

WIC Identification Cards

(1) The local agency will issue one valid WIC identification card (ID card) per family.

(2) The participant, parent or participant's caretaker must sign the WIC ID card at the time of issuance.

(a) A second signature line is provided on the WIC ID card. Participants, parents or caretakers who are first authorized signers may choose a second authorized signer.

(b) Only two authorized signatures are allowed on a WIC ID card.

(c) If a WIC ID card has more than two signatures, it is invalid and a replacement must be obtained at the local agency.

(3) A participant or authorized shopper must bring the WIC ID card to the authorized WIC vendor in order to redeem WIC food instruments. The ID card must be shown prior to each transaction.

(4) A participant shall bring their WIC ID card to all WIC local agency visits.

(5) The WIC local agency may ask the participant or parent/guardian for a valid photo ID prior to issuing a replacement WIC ID card.

(6) The WIC local agency may require verification of a child's custody or a foster parent's status prior to issuing a replacement WIC ID card.

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

333-053-0080

Participant Violations

It is a program violation for a participant or authorized shopper to:

(1) Conduct a WIC transaction without first providing a valid WIC ID card.

(2) Complete a WIC transaction without signing the food instrument.

(3) Redeem a WIC food instrument or FDNP check outside the valid first or last day to use.

(4) Redeem a WIC food instrument at an unauthorized vendor or a FDNP check at an unauthorized market or farm stand.

(5) Redeem a WIC food instrument or FDNP check for unauthorized foods.

(6) Accept change after redeeming a WIC food instrument or FDNP check.

(7) Redeem their own WIC food instruments or FDNP checks if the participant or authorized shopper is an employee of the store, farmer, or farm stand.

(8) Threaten, verbally abuse, assault or use physical force against store, farmer or farm stand employees or owners during a WIC or FCNP transaction.

(9) Threaten, verbally abuse, assault or use physical force against state or local agency staff.

(10) Alter a WIC food instrument, FDNP check or the WIC ID card.

(11) Misrepresent eligibility information to gain WIC or FDNP benefits.

(12) Redeem a WIC food instrument or FDNP check for alcohol, cash, credit, tobacco or any other non-food item.

(13) Sell a WIC food instrument or FDNP check for cash, credit, merchandise or other non-food item.

(14) Sell, exchange, or give away the food purchased with WIC food instruments or FDNP checks.

(15) Return foods purchased with WIC food instruments to a WIC vendor unless they are receiving the identical item in exchange.

(16) Use WIC food instruments or FDNP checks that have been reported as lost or stolen.

(17) Keep in their possession state or local agency owned property past a predetermined return date (e.g. hospital grade breast pump).

(18) Sell or exchange state or local agency owned property including, but not limited to, hospital grade breast pumps.

(19) Simultaneously participate in more than one WIC program (more than one state or more than one local agency or clinic) or participate in the WIC program and in the CSFP at the same time.

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

333-053-0090

Participant Sanctions

(1) A participant found to have intentionally violated OAR 333-053-0080(1) through (9) may be issued a Notice of Non-Compliance.

(2) For a first time violation of OAR 333-053-0080(10) through (17), a participant will be assessed a claim for the full amount of the benefits improperly obtained; and if the claim assessed is \$100 or more, the participant will be disqualified from the program for one year from the date the violation occurred.

(3) For second or subsequent violations of OAR 333-053-0080(10) through (17) in a 12 month period, a participant will be disqualified from the program for one year, regardless of the assessed dollar amount of the claim.

(4) A participant found to have violated OAR 333-053-0080(18) or (19) will be assessed a claim for the full amount of benefits improperly obtained, or for the full value of the property and will be disqualified from the program for one year.

(5) The Department may decide not to impose a disqualification if, within 30 days of the date the letter was mailed demanding repayment, full restitution is made or a repayment schedule is agreed upon. In the case of a violation committed by the parent/caretaker of an infant or child participant, or by a participant under the age of 18, the Department may approve the designation of a proxy in order to continue program benefits to these participants.

(6) If a claim is for a hospital grade breast pump, the participant will not be disqualified from the program, but will be required to pick up WIC benefits monthly from the local agency until the breast pump is returned or the claim is paid.

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

333-053-0100

Participant Claims

(1) If the Department determines that program benefits have been obtained or used improperly as the result of an intentional participant violation, the Department shall establish a claim against the participant for the full value of such benefits.

(2) For all claims, the Department shall issue a Notice of Claim setting out the facts of the claim and demanding repayment.

(3) If the full restitution is not made or a repayment schedule is not agreed on within 30 days of the date the letter was mailed, the Department shall take additional collection actions until restitution is made or a repayment schedule is agreed on, unless the Department determines that further collection actions would not be cost-effective to pursue.

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

333-053-0110 (333-054-0150)

Administrative Review

(1) DHS shall provide a participant with a fair hearing in accordance with the provision of ORS chapter 183 and 7 CFR 246.9 for the following:

(a) Denial of participation;

(b) Disqualification; or

(c) Imposition of a sanction.

(2) DHS shall notify the participant in writing of the right to a fair hearing, of the method by which a hearing may be requested, and that any positions or arguments on behalf of the individual may be presented personally or by a representative such as a relative, friend, legal counsel or other spokesperson.

(3) DHS shall not limit or interfere with the participant's freedom to request a hearing.

(4) Participants must request a fair hearing within 60 days from the date DHS notifies the applicant or participant of an adverse action.

(5) DHS shall not deny or dismiss the request of a fair hearing unless:

(a) The request is not received within 60 days;

(b) The request is withdrawn in writing by the participant or participant's representative;

(c) The participant or the participant's representative fails, without good cause, to appear at the scheduled hearing; or

(d) The participant has been denied participation by a previous hearing and cannot provide evidence that the circumstances relevant to the program have changed in such a way as to justify a hearing.

(6) Participants may continue receiving WIC benefits pending a hearing outcome unless the participant becomes categorically ineligible.

(7) A participant who becomes categorically ineligible while awaiting the outcome of an administrative review or appeal shall not continue to receive WIC benefits.

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600