

#### **10A NCAC 43D .0410 PARTICIPANT VIOLATIONS AND SANCTIONS**

(a) The State agency shall assess a claim for the full value of Program benefits that have been obtained or disposed of improperly as the result of a participant violation. "Participant violation" means those violations listed in 7 C.F.R. 246.2 which are incorporated by reference in Rule .0202 of this Subchapter. A claim shall not be paid by offsetting the claim against future Program benefits.

(b) The following participant violations committed by a participant, parent or caretaker of an infant or child participant, or proxy shall result in a one-year disqualification of the participant from the WIC Program, except as provided in Paragraphs (c) and (d) of this Rule:

- (1) Exchanging food instruments, cash-value vouchers or supplemental food for cash;
- (2) Exchanging food instruments, cash-value vouchers or supplemental food for alcohol, alcoholic beverages, tobacco products, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802;
- (3) A claim for dual participation resulting from intentional misrepresentation;
- (4) Intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain Program benefits;
- (5) Any participant violation for which a claim of one hundred dollars (\$100.00) or more is assessed;
- (6) A second or subsequent claim assessed for any participant violation, regardless of the dollar amount. The second or subsequent claim does not have to be for the same participant violation as the initial claim to result in a one-year disqualification; and
- (7) Physical harm to clinic or vendor staff.

(c) The one-year disqualification referenced in Paragraph (b) of this Rule shall not be imposed against the participant if a claim is assessed and full payment is made or a repayment schedule is agreed upon within 30 days of receipt of a written demand for repayment of the claim for the improperly obtained or disposed of Program benefits.

(d) The one-year disqualification referenced in Paragraph (b) of this Rule shall not be imposed against the participant if the participant is an infant, child, or under age 18 and the state or local agency approves the designation of a proxy for the participant. Designation of a proxy shall be approved if the proxy:

- (1) is at least 18 years of age;
- (2) presents proof of identification in the form of a government-issued photo identification card, work or school identification card, health benefits or social services program card, social security card, birth certificate, or a pay stub or utility bill no more than 60 days old;
- (3) has written authorization from the participant or the parent or caretaker of an infant or child participant;
- (4) will not be serving as proxy for more than two families at the same time; and
- (5) will be the person who transacts the food instruments.

(e) Except as provided in Subparagraphs (b)(5) and (b)(6) of this Rule, the following participant violations committed by a participant, parent or caretaker of an infant or child participant, or proxy shall result in a written warning for the first violation and the assessment of a claim for the full amount of any improperly obtained or disposed of Program benefits:

- (1) Exchanging food instruments, cash-value vouchers or supplemental food for credit;
- (2) Exchanging food instruments, cash-value vouchers or supplemental food for non-food items, other than alcohol, alcoholic beverages, tobacco products, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802; and
- (3) Exchanging food instruments, cash-value vouchers or supplemental food for unauthorized food items, including supplemental foods in excess of those listed on the participant's food instrument.

For the violations listed in this Paragraph, failure to pay a claim in full or agree to a repayment schedule within 30 days of receipt of a written demand for repayment of a claim, shall result in a 90-day disqualification of the participant, unless the participant is an infant, child, or under age 18 and the state or local agency approves the designation of a proxy for the participant in accordance with Paragraph (d) of this Rule.

(f) The occurrence of a second or subsequent participant violation listed in Paragraph (e) of this Rule shall result in a one-year disqualification of the participant and the assessment of a claim for the full amount of any improperly obtained or disposed of Program benefits. The second or subsequent violation does not have to be the same as the initial violation to result in a one-year disqualification. The one-year disqualification shall not be imposed against the participant if full payment is made or a repayment schedule is agreed upon within 30 days of receipt of a written demand for repayment of a claim. Additionally, the one-year disqualification shall not be imposed against the participant if the participant is an infant, child, or under age 18 and the state or local agency approves the designation of a proxy for the participant in accordance with Paragraph (d) of this Rule.

(g) Threatening physical harm to or verbal abuse of clinic or vendor staff by a participant, parent or caretaker of an infant or child participant, or proxy shall result in a written warning for the first occurrence of this violation. A second occurrence within a 12-month period shall result in a 90-day disqualification of the participant, unless the participant is an infant, child, or under age 18 and the state or local agency approves the designation of a proxy for the participant in accordance with Paragraph (d) of this Rule.

(h) For any disqualification imposed under this Rule, a participant may reapply for Program participation if during the period of the disqualification full payment is made or a repayment schedule is agreed upon, or in the case of a participant who is an infant, child, or under age 18, the state or local agency approves the designation of a proxy in accordance with Paragraph (d) of this Rule.

(i) The participant has a right to a fair hearing in accordance with Section .0900 of this Subchapter for sanctions imposed under this Rule.

*History Note: Authority G.S. 130A-361; 7 C.F.R. 246; 42 U.S.C. 1786;  
Eff. July 1, 1983;  
Amended Eff. November 1, 1990;  
Temporary Amendment Eff. July 1, 2002;  
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