

10A NCAC 43D .0905 REQUEST FOR A FAIR HEARING

(a) A request for a fair hearing is any expression that conveys a desire to present a case contesting an action that results in an individual's denial of participation, or disqualification from the program or a claim against an individual for repayment of the cash value of improperly issued Program benefits. This request may be made to any of the following:

- (1) the agency official;
- (2) the agency director of the local WIC agency;
- (3) the WIC director of the local WIC agency;
- (4) any person serving in one of the above three roles in the absence of the agency official, agency director or WIC director.

(b) If the request is not made directly to the agency official, the individual receiving the request shall immediately notify the agency official of the request by telephone.

(c) All requests shall be documented in writing.

- (1) If the original request is made in writing, the individual receiving the request shall retain a photocopy and send the original to the agency official immediately following the telephone call.
- (2) If a verbal request is received, the individual receiving the request shall document the request in writing, including:
 - (A) the applicant's or participant's name;
 - (B) the name of the individual making the request:
 - (i) their mailing address;
 - (ii) telephone number; and
 - (iii) relation to the applicant or participant;
 - (C) the date of the request; and
 - (D) the cause for the request along with the name, title, and signature of the person writing the documentation.

The original copy of this documentation shall be sent to the agency official immediately following the telephone call with a copy being retained by the sender.

(d) The request for a fair hearing may be made by the individual affected by the action or the individual's parent, caretaker, or any other person acting on his or her behalf.

(e) If an individual or an individual's parent, caretaker, or any other person acting on his or her behalf expresses verbally the desire for a fair hearing to a state or local agency staff member not authorized to accept a request, that staff member shall provide assistance in contacting the individuals who can accept a fair hearing request.

(f) The request for a fair hearing must be made within 60 days from the date the applicant or participant is given notice of the action. If the notification is mailed, this time period shall begin on the date the notification was mailed.

History Note: Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786; Eff. July 1, 1981; Amended Eff. November 1, 1990; Temporary Amendment Eff. July 1, 2002; Amended Eff. July 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, 2017.