

# Maine Center for Disease Control and Prevention WIC Nutrition Program

## Department of Health and Human Services

Effective: October 1, 2011

Revised: August 1, 2014

Policy No. FMNP-6

### Administrative Review of State Agency Actions (Farmers)

#### Authority

7 CFR §248.16;

22 MRSA §255 and §1951.

#### Policy

- Any farmer adversely affected by a Local or State Agency decision has the right to a formal hearing in the following instances:
  - Denial of authorization
  - Termination of the Farmer Agreement
  - Disqualification from the WIC/FMNP Program during the contract period, other than disqualification due to a SNAP disqualification
  - Imposition of civil money penalty in lieu of disqualification

#### Procedures

1. All administrative hearings shall be conducted in accordance with the rules contained in the WIC Federal Regulations, 7 CFR §248.16, and Department of Health and Human Services Administrative Hearings Regulations, 10-144 CMR Chapter 1.
2. Any farmer adversely affected by a Local or State Agency decision shall be informed in writing at least fifteen (15) days prior to the effective date of the action, of the reasons for the action, and the right to an administrative hearing.
3. A request for an administrative hearing shall be defined as a written or verbal statement by a vendor requesting the opportunity to present his/her case to a higher authority. If the request for a hearing is made to the State Agency, a Request for Administrative Hearings Form (Appendix VM-7-A) shall be completed immediately and forwarded to the Office of Administrative Hearings.

4. Requests for an administrative hearing shall be made within fifteen (15) days from the date of the written notice of the adverse action.
5. Requests received by Local Agencies shall be forwarded to the State Agency within three (3) working days of receipt.
6. The Department shall not deny or dismiss a request for an administrative hearing unless:
  - 6.1 The request is not received within the time limits set by the Department.
  - 6.2 The request is withdrawn in writing by the appellant or his representative.
  - 6.3 The appellant or representative fails, without good cause, to appear at the scheduled hearing.
  - 6.4 The appellant is not entitled to a hearing as set forth above.
7. Adverse actions against a farmer shall be stayed until final agency action.
8. Administrative hearing dates shall be scheduled to take into consideration the convenience of the appellant, in terms of both time and location.
9. The appellant shall be solely responsible for the cost of his or her legal counsel.
10. The State Agency shall immediately forward any request for withdrawal of an administrative hearing to the Hearing Officer.
11. An administrative hearing may not be delayed or canceled for the purpose of considering a possible adjustment unless the appellant requests such a delay or cancellation.
12. The appellant shall be provided with adequate opportunity to examine all records and documents to be presented at the administrative hearing, at any time after a request for a hearing has been made.
13. Any representative of the appellant must have written authorization from the appellant to examine such records.
14. All administrative hearing decisions shall be issued in accordance with the rules contained in the Department of Health and Human Services Administrative Hearings Regulations 10-144 CMR Chapter 1.
15. An appellant may appeal an unfavorable decision to Superior Court pursuant to M.R.Civ.P.80C. However, unless otherwise ordered by the Superior Court, the Hearing Officer's decision shall not be stayed.

16. The State Agency shall keep a record of all administrative hearings and their outcome. Information will include:
  - 16.1 Vendor/farmer number
  - 16.2 Name of farmer/business
  - 16.3 Termination/disqualification date
  - 16.4 Reason for termination/disqualification
  - 16.5 Administrative hearing date
  - 16.6 Hearings officer's recommended decision
  - 16.7 Date of recommended decision
  - 16.8 Commissioner's final decision on Order of Reference
  - 16.9 SNAP notified – yes or no