



Food and
Nutrition
Service

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Center

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August 19, 2016

SUBJECT: WIC Policy Memorandum #2016-5
Separation of Duties at WIC Local Agencies

TO: Regional Directors
Special Nutrition Programs
All Regions

WIC State Agency Directors
All Regions

Over the past several months, the Food and Nutrition Service (FNS) has received a number of questions regarding the separation of duties requirements at the local or clinic level. It is critical for WIC State agencies to recognize that in order to maintain the integrity of the WIC Program, adequate safeguards must be in place to prevent fraud and abuse. Therefore, this memorandum provides additional clarification on this issue.

Background

It is important to examine the impetus for this provision. The Department implemented this regulatory requirement in response to an August 1999 Report by the Government Accountability Office (GAO) entitled Efforts to Control Fraud and Abuse in the WIC Program Can Be Strengthened. Specifically, the intent was for WIC State agencies to develop policies and procedures that would prevent Local agency staff members from certifying themselves, relatives, or friends; it also addressed the issue of one employee being solely responsible for determining the eligibility of an applicant for all the certification requirements and for issuing food benefits to that same WIC participant, i.e., lack of separation of duties.

As stated in the Preamble to the 2006 WIC Miscellaneous Final Rule (71 FR 56708), which implemented the separation of duties requirement, the intent of this provision is to ensure that one employee does not both certify and issue food benefits. However, FNS recognizes that there may be circumstances, e.g., a satellite clinic with only one staff person, which would prevent strict adherence to this policy. In these instances, State agencies are required to establish effective alternative policies and procedures, such as a timely supervisory review of the records of the certification and benefits issued performed by such employees. As part of your Local agency management review, you must ensure that Local agencies (and clinics) are in compliance with the separation of duties policies and procedures.

Section 246.4(a)(26) of the Federal WIC regulations requires each State agency to define in its State Plan the policies and procedures that are in place to prevent conflicts of interest at the Local agency or clinic level in a reasonable manner. At a minimum,

this plan must prohibit the following WIC certification practices by Local agency or clinic employees, or provide effective alternative policies and procedures when such prohibition is not possible:

- (i) ***Certifying oneself;***
- (ii) ***Certifying relatives or close friends; or,***
- (iii) ***One employee determining eligibility for all certification criteria and issuing food benefits.***

Achieving Acceptable Separation of Duties

It is critically important to target our efforts in areas that may be susceptible to fraud or abuse. Therefore, at a minimum, the staff person who determines income eligibility and medical or nutritional risk cannot be the same person. Either person may issue food benefits. Further, having one staff person check identification or residency and another staff person conduct the remainder of the certification does not meet the regulatory intent of separation of duties requirements.

If a State agency finds that they cannot achieve acceptable separation of duties, within the constraints of their clinic facilities and/or its management information system/electronic benefit transfer (MIS/EBT) technology capabilities, State agencies may implement one of the following options of service delivery. State agencies that use one of the options below are required to at a minimum, do the following:

1. *Certifying oneself, certifying relatives or close friends.*

- This may only occur with prior approval of the State Agency Director or his/her designee. An individual other than the certifier (e.g. the WIC Local Agency Director) must conduct a post review of all such records within two (2) weeks of the certification. Documentation of this review must be maintained on file at the Local agency for review during management evaluations.

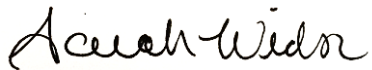
2. *Only one staff person present at a clinic and determining eligibility for all certification criteria and issuing food benefits for all participants in a clinic.*

- In an effort to minimize the potential for fraud and abuse, an individual other than the certifier (e.g. the WIC Local Agency Director) must conduct a post review of all non-breastfeeding infant certification records and at least 20 percent of a random sample of the remaining certification records within two (2) weeks of the certification. It is recommended that staff is rotated so that the same staff person is not the only person that is known to the satellite clinic. Documentation of this review must be maintained on file at the Local agency for review during management evaluations.

3. ***Clinics with multiple WIC staff that allow one staff person to perform all eligibility and certification functions including issuing food benefits.***
- FNS does not recommend this method of providing WIC services as it does not meet the strict definition of separation of services. When this option is exercised, an individual, other than the certifier (e.g. the WIC Local Agency Director), must conduct a post review of all non-breastfeeding infant certification records and at least 20 percent of a random sample of the remaining certification records within two (2) weeks of the certification. An additional file review of 10 percent of each clinic's certification files must be conducted every six months by the State Agency Director or designee, or a WIC Local Agency Director. Documentation of both reviews must be maintained on file at the Local agency for review during management evaluations.

Summary

It is critical for WIC State agencies to recognize that in order to maintain the integrity of the WIC Program, adequate safeguards must be in place to prevent fraud and abuse. WIC State agencies may institute more stringent criteria in order to ensure regulatory compliance and program integrity. WIC State agencies must ensure implementation of this policy no later than December 1, 2016. For further questions or assistance on this issue, State agencies should contact their respective FNS Regional Offices.



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