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Title 22@ Social Security

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Division 2@ Department of Social Services-Department of Health Services

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Part 2@ Health and Welfare Agency-Department of Health Services Regulations

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Subdivision 6@ Preventive Medical Services

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Chapter 6@ California Special Supplemental Food Program for Women, Infants and Children

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Article 2@ Certification of Participants

## **40679 Actions Affecting Participation in Mid-Certification**

Section 40679@ Actions Affecting Participation in Mid-Certification

### **(a)**

The local agency shall disqualify an individual in the middle of a certification period for the following reasons: (1) Through a reassessment of eligibility status, the individual is determined to no longer meet eligibility requirements. However, a participant whose nutritional risk condition has resolved shall not be disqualified mid-certification. (2) The local agency shall disqualify a participant for a period not to exceed three months for participant abuse including, but not limited to, any of the following reported program violations by the participant or parent, guardian, caretaker, or representative of the participant: (A) Knowing and deliberate misrepresentation of facts or circumstances which affect Program eligibility; (B) Sale of supplemental foods or food instruments to, or exchange with, other individuals or entities; (C) Purchase of more than the specified amount of an authorized food item(s) with food instruments; (D) Receipt from food vendors of cash or credit toward purchase of unauthorized food or other items of value in lieu of authorized supplemental foods; (E) Return of authorized food items purchased with WIC food instruments for cash, credit, or unauthorized items; (F) Physical abuse, or threat of physical abuse, of WIC clinic or vendor staff; (G) Purchase of unauthorized food items with WIC food instruments; (H) Use of food instruments outside of the valid dates; (I) Any alteration of the food instrument; (J) Redemption of food instruments at any food vendor other than the one imprinted on the food

instrument; (K) Theft of food instruments; (L) Dual participation; (M) Accepting WIC food instruments from anyone other than WIC staff. (3) Fails to pick up food instruments or to keep scheduled appointments for a period of two consecutive months. (4) If the Department experiences funding shortages, it may be necessary to discontinue Program benefits to a number of certified participants whose nutritional and health status would be least impaired by withdrawal of Program benefits. Such action shall be taken only after the Department has explored alternative actions; the action shall be calculated to affect the least possible number of participants with the expectation of providing benefits again when funds are available. When the Department elects to discontinue benefits to a number of certified participants due to insufficient funds, local agencies shall not enroll new participants during the time period.

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**(2)**

The local agency shall disqualify a participant for a period not to exceed three months for participant abuse including, but not limited to, any of the following reported program violations by the participant or parent, guardian, caretaker, or representative of the participant: (A) Knowing and deliberate misrepresentation of facts or circumstances which affect Program eligibility; (B) Sale of supplemental foods or food instruments to, or exchange with, other individuals or entities; (C) Purchase of more than the specified amount of an authorized food item(s) with food instruments; (D) Receipt from food vendors of cash or credit toward purchase of unauthorized food or other items of value in lieu of authorized supplemental foods; (E) Return of authorized food items purchased

with WIC food instruments for cash, credit, or unauthorized items; (F) Physical abuse, or threat of physical abuse, of WIC clinic or vendor staff; (G) Purchase of unauthorized food items with WIC food instruments; (H) Use of food instruments outside of the valid dates; (I) Any alteration of the food instrument; (J) Redemption of food instruments at any food vendor other than the one imprinted on the food instrument; (K) Theft of food instruments; (L) Dual participation; (M) Accepting WIC food instruments from anyone other than WIC staff.

**(A)**

Knowing and deliberate misrepresentation of facts or circumstances which affect Program eligibility;

**(B)**

Sale of supplemental foods or food instruments to, or exchange with, other individuals or entities;

**(C)**

Purchase of more than the specified amount of an authorized food item(s) with food instruments;

**(D)**

Receipt from food vendors of cash or credit toward purchase of unauthorized food or other items of value in lieu of authorized supplemental foods;

**(E)**

Return of authorized food items purchased with WIC food instruments for cash, credit, or unauthorized items;

**(F)**

Physical abuse, or threat of physical abuse, of WIC clinic or vendor staff;

**(G)**

Purchase of unauthorized food items with WIC food instruments;

**(H)**

Use of food instruments outside of the valid dates;

**(I)**

Any alteration of the food instrument;

**(J)**

Redemption of food instruments at any food vendor other than the one imprinted on the food instrument;

**(K)**

Theft of food instruments;

**(L)**

Dual participation;

**(M)**

Accepting WIC food instruments from anyone other than WIC staff.

**(3)**

Fails to pick up food instruments or to keep scheduled appointments for a period of two consecutive months.

**(4)**

If the Department experiences funding shortages, it may be necessary to discontinue Program benefits to a number of certified participants whose nutritional and health status would be least impaired by withdrawal of Program benefits. Such action shall be taken only after the Department has explored alternative actions; the action shall be calculated to affect the least possible number of participants with the expectation of providing benefits again when funds are available. When the Department elects to discontinue benefits to a number of certified participants due to insufficient funds, local agencies shall not enroll new participants during the time period.

**(b)**

Based on the circumstances of the particular case, local agencies may stay the effect of the three month suspension period authorized in a)(2) above with written approval from the Department.

**(c)**

As specified in (a)(2) above and in accordance with the provisions of Sections 40683 and 40757 and 7 CFR 246.23(c), participants or their parents, guardians, caretakers or representatives who have been determined to have intentionally misrepresented, concealed or withheld facts shall be required to reimburse the Department for the financial loss which resulted from improper receipt of program benefits. The financial loss is specifically limited to the value of the overissued food benefits.

**(d)**

Local agencies shall have up to 30 days upon learning of a reported program violation to make a determination as to the validity of the violation and to notify the participant in writing. This written notification shall be sent by certified return receipt. The written notification shall include the reasons for the action, and of the right to a fair hearing to appeal the disqualification in accordance with the provisions of Section 40703 of these regulations. Such notification need not be provided to persons who will be disqualified for not picking up food instruments in accordance with the provisions of Section 40679(a)(3) of these regulations. Disqualification shall not take effect until at least fifteen (15) calendar days after the participant has received the written notice.