



NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE THAT on March 24, 2010, at 10:00 a.m., in the Board Room at the Department of Community Health, #2 Peachtree Street, 5th Floor, Atlanta, Georgia, a public hearing will be held for the presentation of proposed administrative rule changes.

The chapter affected by the proposed changes of administrative rules & regulations is listed below:

Division of Public Health

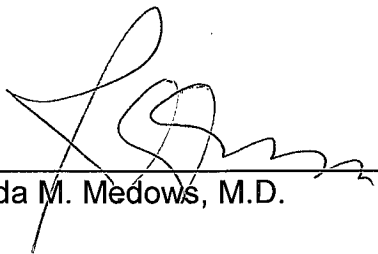
Ga. Admin. Comp. Ch. 111-9-1; The Special Supplemental Nutrition Program for Women, Infants and Children (WIC)

All interested persons are hereby given the opportunity to participate by submitting data, views or arguments (orally or in writing). Oral comments may be limited to 10 minutes per person. If you need auxiliary aids or services because of a disability, please contact the Office of General Counsel at (404) 657-7195 at least (3) three business days prior to the hearing.

Written comments must be submitted to the Department or postmarked no later than the close of business at 5:00 p.m. on March 25, 2010. Comments may be faxed to (404) 656-0663, emailed to pjohnson@dch.ga.gov or mailed to the address above, attention Office of General Counsel.

Unless revision of the proposed rule changes is indicated as a result of the public comments, it is the intent of the Department of Community Health to ask the Board of Community Health to approve the rule(s) as promulgated herein for final adoption on April 8, 2010.

This 16th day of February, 2010.



Rhonda M. Medows, M.D.

RMM:pmj

Attachments

Equal Opportunity Employer

SYNOPSIS

Rule 111-9-1 et seq.

Administrative Rules for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program)

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULES

The purpose of these proposed rules is to codify in the Georgia and Department of Community Health administrative code certain provisions regarding the Georgia WIC program, including definitions, purpose and administration of the program, vendor terms and conditions, and rules governing vendor administrative review, hearings, and appeals.

RULES
OF
DEPARTMENT OF COMMUNITY HEALTH

CHAPTER 111-9
PUBLIC HEALTH

CHAPTER 111-9-1
THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

TABLE OF CONTENTS

111-9-1-.01 Legal Authority
111-9-1-.02 Title and Purpose
111-9-1-.03 Definitions
111-9-1-.04 Purpose and Administration of WIC
111-9-1-.05 Vendor Terms and Conditions
111-9-1-.06 Vendor Administrative Review, Hearings and Appeals

111-9-1-.01 Legal Authority.

These rules are adopted and published pursuant to Section 17 of the Child Nutrition Act of 1966, as amended.

Authority: 42 U.S.C. § 1786; 7 C.F.R. § 246.1 and O.C.G.A. § 50-13-1, et. al.

111-9-1-.02 Title and Purpose.

These rules shall be known as the Administrative Rules for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The purpose of these rules is to provide for the administration of Georgia WIC as set forth by the Child Nutrition Act of 1966, as amended, and the Code of Federal Regulations. The definitions found in 7 C.F.R. § 246.2 are incorporated by reference with all subsequent amendments and editions.

Authority: 42 U.S.C. § 1786; 7 C.F.R. §§ 246.2 and 246.3.

111-9-1-.03 Definitions.

(1) "Adverse action" means an action taken by the State agency, which is subject to full or abbreviated administrative review as provided by 7 C.F.R. § 246.18(a)(1)(i)(ii), as a result of a vendor violation of the Georgia WIC rules and regulations, as that term is defined by 7 C.F.R. § 246.2.

(2) "Days" means calendar days.

(3) "Department" means the U.S. Department of Agriculture.

(4) "FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

(5) "Food delivery system" means the method used by State and local agencies to provide supplemental foods to participants.

(6) "State" means the State of Georgia.

(7) "State agency" means the health department or comparable agency of the State of Georgia.

(8) "State Plan" means the Georgia WIC plan of operation and administration that describes the manner in which the State agency intends to implement and operate all aspects of Georgia WIC.

(9) "Vendor" means a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the State agency to provide authorized supplemental foods to participants under a retail food delivery system. Each store operated by a business entity constitutes a separate vendor and must be authorized separately from other stores operated by the business entity. Each store must have a single, fixed location, except when the authorization of mobile stores is necessary to meet the special needs described in the Georgia WIC State Plan of operation.

(10) "Vendor authorization" means the process by which the State agency assesses, selects, and enters into agreements with stores that apply or subsequently reapply to be authorized as vendors.

(11) "WIC" means the Special Supplemental Nutrition Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966, 42 U.S.C. 1786.

Authority 42 U.S.C. & 1786; 7 C.F.R. § 246.2.

111-9-1-.04 Purpose and Administration.

(1) Purpose. The Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program) follows from the Child Nutrition Act of 1966 which states, in part, that the Congress finds that substantial numbers of pregnant, postpartum and breastfeeding women, infants and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. The purpose of Georgia WIC is to:

(a) provide supplemental foods, and nutrition education and counseling through payment of cash grants to State agencies which administer Georgia WIC through local agencies at no cost to eligible persons;

(b) serve as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems, including drug and other harmful substance abuse, and to improve the health status of these persons; and

(c) supplement the Food Stamp Program and any program under which foods are distributed to needy families in lieu of food stamps and receipt of food or meals from soup kitchens, or shelters or other forms of emergency food assistance.

(2) Administration of State Plan. The State agency shall administer the Georgia WIC State Plan of operation in accordance with these Rules and all relevant Federal and State law, rules and regulations, and policies and procedures governing Georgia WIC.

(3) Policies: Guidelines and Manuals. The State agency shall promulgate policies, guidelines and manuals to facilitate operation of Georgia WIC in accordance with the agreement with the Department, the guidelines and instructions issued by the Department and FNS in policy letters and management evaluations, and the Georgia WIC State Plan of operation and the rules contained in this Subchapter.

Authority: 42 U.S.C. § 1786; 7 C.F.R. §§ 246.1 and 246.3.

111-9-1-.05 Vendor Terms and Conditions.

The State agency shall publish the terms and conditions for vendor authorization and participation under the Georgia WIC State Plan of operation that includes the Georgia WIC Procedures Manual, the Vendor Agreement and Georgia WIC Vendor Handbook. A copy of the terms and conditions, including the Georgia WIC Procedures Manual, Vendor Agreement and Georgia WIC Vendor Handbook, shall be disseminated to each authorized vendor. Such terms and conditions shall be amended from time to time when Georgia WIC finds it necessary or appropriate to do so. All such amendments shall be disseminated to affected vendors at the addresses at which they are then registered with Georgia WIC. Amended terms and conditions shall be effective as specified by Georgia WIC at the time of dissemination.

Authority: 42 U.S.C. § 1786; 7 C.F.R. §§ 246.4 and 246.12.

111-9-1-.06 Vendor Administrative Review, Hearings and Appeals.

(1) Appeal of adverse action. The appeal provisions for vendors found in 7 C.F.R. § 246.18(a)(1), (b) and (c) are incorporated by reference with all subsequent amendments and editions. The appeal procedures in 7 C.F.R. §§ 246.18(b) and (c) shall apply to the adverse actions listed in 7 C.F.R. §§ 246.18(a)(1)(i), (ii) and (iii). All administrative appeals under this Section shall be made in accordance with the Georgia Administrative Procedure Act at O.C.G.A. § 50-13-1 *et seq.*

(2) Written request for appeal. The Georgia WIC Vendor shall appeal all adverse actions of the State agency which are subject to administrative review as provided by 7 C.F.R. § 246.18 in writing to the State agency within ten (10) days of receipt of the adverse action. Failure to do so shall be deemed a waiver of the right to appeal the adverse action, and consequently, the adverse action shall be effective twenty (20) days after the date of receipt of the notice of the adverse action. When a Georgia WIC Vendor makes a timely appeal in writing of an adverse action of the State agency which is subject to administrative review as provided by 7 C.F.R. § 246.18, the adverse action shall also be effective twenty (20) days after the date of receipt of the adverse action.

Authority: O.C.G.A. § 50-13-1, et. al., 42 U.S.C. § 1786; 7 C.F.R. 246.18; and 7 C.F.R. § 246.18 (a)(1)(i) and (ii); (a)(2); (a)(3).