

.01 Purpose.

A. This chapter sets forth the appeal procedure for the Senior Farmers' Market Nutrition Program (SFMNP) and the WIC Farmers' Market Nutrition Program (WIC FMNP). The SFMNP and the WIC FMNP are segments of the Farmers' Market Nutrition Program (FMNP). The Maryland Department of Agriculture administers SFMNP in the State. The [Maryland Department of Agriculture and the] Maryland Department of Health [jointly administer] *assists the Department in administering* the WIC FMNP in the State. The FMNP, a federal-State partnership with USDA, is designed to:

(1)—(2) (text unchanged)

B. This chapter, as required under 7 CFR §248.16 for the WIC FMNP and 7 CFR §249.16 for the SFMNP, establishes a procedure for the following persons to appeal certain adverse actions of the Maryland Department of Agriculture in its administration of the FMNP:

(1)—(2) (text unchanged)

(3) Farmers participating in the SFMNP and the WIC FMNP *and who have applied to participate in these programs.*

C. The Maryland Department of Health has adopted a procedure for the following persons to appeal certain adverse actions it takes in administering its portion of the WIC FMNP:

(1) (text unchanged)

(2) Local agencies assisting in [implementing] *distribution of the WIC FMNP.*

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(7) (text unchanged)

(8) "WIC FMNP" means a Federal-State partnership that USDA has with the [Maryland Department of Agriculture and the Maryland Department of Health] *Department* in which USDA provides federal funds to [these departments] *the Department* to administer a program designed to:

(a) Provide WIC FMNP recipients access to locally grown fruits, vegetables, [honey,] and herbs; and

(b) Increase the domestic consumption of agricultural commodities through farmers' markets, roadside stands, and community supported agricultural programs.

(9) "WIC FMNP recipient" means a *pregnant* woman, [infant older than 4 months, or child who receives benefits or is waiting to receive benefits] *breastfeeding woman, postpartum woman, infant, or child who is receiving benefits under the Program, and the breastfed infant of a breastfeeding woman participant* under the WIC Program authorized under §17 of the Child Nutrition Act of 1966, as amended.

.03 Appealing Adverse Actions to the Secretary.

A. (text unchanged)

B. SFMNP Participants.

(1)—(2)

(3) An SFMNP recipient who becomes ineligible during a certification, or whose certification period expires, may appeal the termination. While awaiting the hearing, the SFMNP recipient may not receive *new* benefits.

C.—D. (text unchanged)

.05 Time Limit for Requesting a Hearing.

A. [If the Department takes one of the adverse actions] *Except a farmer participating in the WIC FMNP, a person who is the subject of an adverse action* listed in Regulation .03 of this chapter[, the person against whom the action is taken] (for example, the SFMNP applicant or recipient, a local agency, or a farmer *participating in the SFMNP*) shall *file a written request for a hearing with the Department* within 30 days from the date that the Department mails or otherwise issues the notice of the action.

B. *A farmer participating in the WIC FMNP shall file a written request for a hearing with the Maryland Department of Health within 10 days from the date that the Department mails or otherwise issues the notice of action.*

C. *The Department shall consider a request for a hearing filed on the earlier of the dates it is:*

(1) *Received by the Department, such as by delivery by the person; or*

(2) *Postmarked by the United States Postal Service.*

.07 Procedure.

If the Department takes one of the adverse actions listed in Regulation .03 of this chapter, it shall provide the person affected (for example, the SFMNP applicant or recipient, a local agency, or a farmer) with the following:

A. [3] *15 calendar* days in advance of the effective date of the adverse action, written notification of the adverse action, the cause for the action, and the effective date of the action, including the Department's determination of whether the action shall be postponed under Regulation .06 of this chapter if it is appealed, and the opportunity for a hearing;

B. The opportunity to appeal the *Department's* action within [30 days from the date that the Department mails or otherwise issues the notice of adverse action] *the time limits set forth in Regulation .05 of this chapter;*

C. [Adequate] *10 business days* advance notice of the time and place of the hearing to provide all parties involved sufficient time to prepare for the hearing;

D.—H. (text unchanged)

.09 Continuing Responsibilities.

When a farmer or local agency appeals an adverse action and is permitted to continue in the FMNP while the appeal is pending, the farmer or local agency continues to be responsible for compliance with *all FMNP regulations and* the terms of the written agreement or contract with the Department.