WIC Policy Memorandum #2016-5 - *Separation of Duties*

Frequently Asked Questions

1. Why did FNS issue the Separation of Duties policy memorandum?

WIC regulations at 7 CFR 246.4(a)(26) require WIC State agencies to set forth policies and procedures in the State Plan to prevent conflicts of interest at the local agency or clinic level. FNS received numerous questions regarding how to interpret this regulatory requirement. The policy memorandum provides guidance on the regulatory requirement, while allowing for WIC State agency flexibility in implementation. The policy memorandum provides acceptable alternative policies and procedures for situations in which separation of duties cannot be achieved, but it does not preclude WIC state agencies from proposing other alternative policies and procedures.

2. Will FNS develop a screening tool for State agencies to use to review records?

Currently, there are no plans to develop a screening tool. FNS expects that at a minimum, the critical aspects of the certification process (e.g., income, identity, residency, and nutritional risk) are reviewed. Further, the following actions or activities may be helpful things to look for when conducting record reviews:

- Transactions occurring outside regular clinic hours.
- The length of time that a client is certified and the benefits issued do not match.
- A large percentage of VOC's issued/received in comparison to other clinics during the same time period.
- A presence of infant records with no corresponding mother participants.
- No paper casefiles in the clinic that would correlate to an electronic record. In many instances of fraud, staff fail to create a paper chart but create the electronic record.
- Unreasonable or missing height/weight measurements and/or blood test results contained in casefiles.
- An unusual amount of like or similar height/weight measurements and blood test results contained in the casefiles.
- An unusual amount of like or similar nutritional risk factors contained in the casefiles.

3. Why did FNS decide to separate the income eligibility function and the nutritional risk determination function? This seems to be a different interpretation of the 2006 WIC Miscellaneous Rule.

The Preamble of the WIC Miscellaneous Final Rule (71 FR 56708) stated that separation of duties is not violated if at least two staff people are involved in the certification process. Nutritional/medical risk and income eligibility determinations are the certification functions that involve discretionary judgement, as compared to residency and identity which are verification functions.

Section 246.4(a)(26)(iii) of the WIC federal regulations should not be interpreted to mean that separating the certification function and the food instrument issuance function is an acceptable separation of duties. As provided in the policy memorandum, and unless otherwise approved by the State (with appropriate safeguards), the staff person who determines income eligibility cannot be the same person who determines medical or nutritional risk, though either individual could issue food benefits.

4. Scenario: In our State, the person at the front desk collects income, residency and identity documentation, clips it to the folder and passes the participant on to another staff person who reviews the documentation, and determines nutritional risk and eligibility. The participant then returns to the initial person at the front desk to pick up food instruments. Is this acceptable separation of duties?

Separation of duties is not achieved in this scenario, because the person at the front desk is not making an eligibility determination; the individual is simply collecting the information and passing it along. If the front desk person verified residency and identity, and made an income eligibility determination before passing it along to the next staff person to determine nutrition/medical risk, there would be acceptable separation of duties.

5. Is separation of duties required for non-certification appointments, e.g., benefit pick up and nutrition education?

No, separation of duties is not required for non-certification appointments because these types of appointments do not require an eligibility determination.

6. Does the Separation of Duties policy require a state plan amendment?

The Separation of Duties policy does not typically require a state plan amendment. However, if there are significant changes in procedures as a result of the policy implementation, State agencies should work with their respective FNS Regional office to determine if a state plan amendment is necessary.

7. The requirement to implement this policy is December 1, 2016. Can State agencies request an extension to implement the policy?

State agencies should work with their respective FNS Regional office on how best to implement this policy. An implementation extension may be granted at Regional office discretion, provided an approved policy and corresponding procedures are in place by December 1, 2016.

8. Many clinics are staffed by one person. In this scenario, could the time for post record review be extended to one month, rather than within two weeks?

Frequent casefile reviews are a prudent measure to prevent and detect internal fraud. Therefore, post record reviews must be conducted within the prescribed timeframe of two weeks. The State agency has the discretion for how such record reviews are to be conducted, provided that such reviews are within the required timeframe.

9. Can the post record review be conducted by different certifiers reviewing each other's records?

The post-record review must be conducted by an individual that has the authority to change an eligibility decision (e.g., the Local Agency Director).

10. Are the percentages for post-record review a requirement or simply a guideline?

The policy memorandum requires that all non-breastfed infant records (food packages that contain infant formula) must be reviewed, and *at least* 20 percent of a random sample of all remaining certifications must be reviewed within a two week period. Additionally, a file review of 10 percent of each clinic's certification files must be conducted every six months by the State or the Local Agency Director. If the clinic only has one staff person, the additional file review of 10 percent of the clinic's certifications every six months is not required.

Local agencies must maintain documentation of all post-record reviews.

11. What is the definition of a non-breastfed infant?

The policy memorandum does not define non-breastfed infant. For the post record review requirement, all food packages containing infant formula must be reviewed.

12. In conducting post-record reviews, can the remaining 10 percent include some of the records that have already been reviewed?

Yes, it is possible that some of the records may be reviewed a second time because the sample is random. The 10 percent random sample must be conducted either by the State Agency Director or designee, or a WIC Local Agency Director.

13. May a State agency require copies of income to assist with the post record review?

The decision to require copies of income to complete a post record review belongs to the State agency. However, it is an acceptable policy option if the State determines it would help facilitate record reviews.

14. May the State agency perform the post record review?

Yes, the State agency may perform the post record review.

15. Some WIC agencies have concerns that the Separation of Duties policy may disrupt clinic flow and impact their goal of providing participant-centered services. Can FNS please address these concerns?

FNS received several comments expressing concerns about the possible disruption to clinic flow. FNS acknowledges that the policy may require clinic flow modifications and is confident that any clinic disruptions will be temporary. Many State agencies shared that they have used this service delivery method successfully and have not experienced client dissatisfaction, caseload reductions or long participant wait times.