

## **Appeal Procedures for Family Day Care Homes**

All day care home providers (providers) who receive a notice of proposed termination in the Child and Adult Care Food Program (CACFP) for cause have the right to appeal the termination and disqualification and request an administrative review appeal. An appeal is a process by which an impartial hearing official reviews information provided by the CACFP Family Day Care Home (FDCH) sponsor and the provider to determine if procedures were followed and were within the federal and state laws, regulations, policies, and procedures governing the CACFP. The procedure for an appeal follows.

### **Purpose**

The CACFP appeal procedures allow providers participating in the program an avenue for appealing the action of their FDCH sponsor.

A provider may appeal (request an administrative review) when the FDCH sponsor:

1. Proposes termination of the provider's program participation.
2. Proposes to disqualify the provider from future CACFP participation.
3. Suspends the provider's agreement for program participation.

### **Procedure**

Notification, request, and procedure for hearing:

1. Whenever the FDCH sponsor takes action that will affect the participation of a provider in the CACFP, the FDCH sponsor will inform the provider in writing of the action and the ground which its decision is based. The FDCH sponsor will advise the provider of their right to appeal.
2. Upon receipt of the notice of proposed termination, the provider must submit to the FDCH sponsor a written request for appeal postmarked no later than 15 calendar days from the date the notice of proposed termination was received by the provider. The appeal request must be sent to the FDCH sponsor via certified mail. The address is as follows:

FDCH Sponsor  
Attention: (Name of individual responsible for tracking appeals)  
Street Address  
P.O. Box  
City, State Zip Code

The FDCH sponsor will forward the original copy of the appeal request to the hearing official via certified mail.

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3. The provider may refute the charges by providing written documentation to the hearing official in order for the request for an appeal to be considered. The documentation must be filed with the hearing official within ten calendar days of the request for an appeal. The FDCH sponsor will forward the information to the hearing official no later than five calendar days after the additional written documentation is filed with the FDCH sponsor. The hearing official will review only the written documentation/record unless there are extenuating circumstances, as defined by the hearing official. The provider may select to have a written review, written review with in-person argument, or an in-person hearing. The hearing official will set the time and place for the review of the provider records and FDCH sponsor records, if there is an in-person hearing.
4. In the case of an in-person hearing, failure of the provider to appear at a scheduled hearing will forfeit the provider's right to appeal.
5. The provider may represent him/herself, may be represented by another person, or may retain legal counsel.
6. Any information on which the FDCH sponsor's action was based will be available to the provider for review. The hearing official will ensure copies of this information are available to the provider, if necessary.
7. The hearing official will make a decision based solely on information provided by the FDCH sponsor, the provider, and on program regulations, federal and state laws, procedures governing the CACFP, and sponsor provider agreement.
8. The provider, the FDCH sponsor's executive director, and the Michigan Department of Education (MDE) must be notified in writing of the hearing official's final decision within 75 days from the date of the receipt of the request for appeal.
9. The provider may continue to operate during an appeal of proposed termination unless there is evidence of imminent threat or danger to the health or welfare of the children.
10. Providers continuing to operate while appealing the proposed termination will be reimbursed for any eligible meals served during the period of the appeal.
11. During the period of the review by the hearing official, the FDCH sponsor will not take action to collect or offset an overpayment noted in the termination letter.
12. The decision by the hearing official is the final administrative decision. There is no further opportunity to appeal to MDE.

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13. If the provider loses the appeal, the termination date of the agreement is the date of the hearing official's decision.
14. The provider will be placed on the National Disqualified List (NDL) for a period of seven years, or until such time as the FDCH sponsor, in consultation with MDE, determines that the Serious Deficiency (SD) has been fully corrected. However, if any debt relating to the SD has not been repaid, the provider will remain on the list until the debt has been repaid.

### **Appeal Procedures – Notice of Suspension**

Whenever a FDCH sponsor suspends the participation of a provider for imminent threat to the safety or health of participants, the provider must be notified both verbally and in writing that CACFP participation has been suspended, that the day care home is seriously deficient, and the sponsoring organization proposes to terminate the provider's agreement for cause. The written notification must be sent by certified mail.

1. The notice must specify the SD found and state that the provider has the opportunity for an appeal of the proposed termination and disqualification from the CACFP.
2. The written notice must inform the provider that CACFP participation, including all payments, will remain suspended until a final decision is made by the hearing official.
3. The written notice must inform the provider that if the hearing official overturns the suspension, the provider may claim CACFP reimbursement for eligible meals served during the suspension.
4. The written notice must inform the provider that termination of the CACFP agreement will result in being listed on the National Disqualified List. The provider will remain on this list for a period of seven years or until such time that the FDCH sponsor, in consultation with MDE, determines that the SD has been corrected. However, if any debt relating to the SD has not been repaid, the provider will remain on the list until the debt has been repaid.
5. The written notice must inform the provider that if the provider seeks to voluntarily terminate the CACFP agreement after receiving the notice of the proposed termination, the provider will still be considered terminated for cause and the FDCH sponsor will propose to place the provider on the National Disqualified List.