

**FISCAL YEAR 2003
CHILD AND ADULT CARE FOOD PROGRAM
FAMILY DAY CARE HOME SPONSOR MEMO #7**

TO: Family Day Care Home Sponsors

FROM: Julie Stark, Supervisor
Child and Adult Care Food Program

DATE: March 12, 2003

SUBJECT: Termination of Provider Agreement for Cause

The sponsoring organization must initiate action to terminate the agreement of a day care home for cause if the sponsoring organization determines the day care home has committed one or more serious deficiency.

List of Serious Deficiencies for Day Care Homes

Serious deficiencies for day care homes are:

- 1) submission of false information on the application;
- 2) submission of false claims for reimbursement;
- 3) simultaneous participation under more than one sponsoring organization;
- 4) non-compliance with the Program meal pattern;
- 5) failure to keep required records;
- 6) conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health or safety;

- 7) a determination that the day care home has been convicted of any activity that occurred during the past seven years and that indicated a lack of business integrity. A lack of business integrity includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity as defined by the Michigan Department of Education (MDE), or the concealment of such a conviction; or
- 8) any other circumstance related to non-performance under the sponsoring organization/day care home agreement, as specified by the sponsoring organization or MDE.

Serious Deficiency Notification Procedures

If the sponsoring organization determines that a day care home has committed one or more serious deficiency, the sponsoring organization must use the following procedures to provide the day care home notice of the serious deficiency(ies) and offer it an opportunity to take corrective action. However, if the serious deficiency constitutes an imminent threat to the health or safety of participants, or the day care home has engaged in activities that threaten the public health or safety, the sponsoring organization must follow the procedure for suspension.

Notice of Serious Deficiency

The sponsoring organization must notify the day care home that it has been found to be seriously deficient and provide a copy of the notice to MDE. The notice must specify:

- 1) the serious deficiency(ies);
- 2) the actions to be taken by the day care home to correct the serious deficiency(ies);
- 3) the time allotted to correct the serious deficiency(ies) (as soon as possible, but not to exceed 30 days;
- 4) that the serious deficiency determination is not subject to administrative review;
- 5) that failure to fully and permanently correct the serious deficiency(ies) within the allotted time will result in the institution=s proposed termination of the day care home=s agreement and the proposed disqualification of the day care home and its principals; and
- 6) that the day care home=s voluntary termination of its agreement with the institution after having been notified that it is seriously deficient will still result in the day care home=s formal termination by MDE and placement of the day care home and its principals on the National Disqualified List.

Successful Corrective Action

If the day care home corrects the serious deficiency(ies) within the allotted time and to the sponsoring organization=s satisfaction, the sponsoring organization must notify the day care home that it has rescinded its determination of serious deficiency and also notify MDE.

Proposed Termination of Agreement and Proposed Disqualification

If timely corrective action is not taken to fully and permanently correct the serious deficiency(ies) cited, the sponsoring organization must issue a notice proposing to terminate the day care home=s agreement for cause. The notice must explain the day care home=s opportunity for an administrative review of the proposed termination. The notice must also be provided to MDE. The notice must:

- 1) inform the day care home that it may continue to participate and receive Program reimbursement for eligible meals served until its administrative review is concluded;
- 2) inform the day care home that termination of the day care home=s agreement will result in the day care home=s termination for cause and disqualification; and
- 3) state that if the day care home seeks to voluntarily terminate its agreement after receiving the notice of intent to terminate, the day care home will still be place on the National Disqualified List.

Program Payments

The sponsoring organization must continue to pay any claims for reimbursement for eligible meals served until the serious deficiency(ies) is corrected or the day care home=s agreement is terminated, including the period of any administrative review.

Agreement Termination and Disqualification

The sponsoring organization must immediately terminate the day care home=s agreement and disqualify the day care home when the administrative review official upholds the sponsoring organization=s proposed termination and proposed disqualification, or when the day care home=s opportunity to request an administrative review expires. At the same time the notice is issued, the sponsoring organization must provide a copy of the termination and disqualification letter to MDE.

Suspension of Participation for Day Care Homes

If State or local health or licensing officials have cited a day care home for serious health or safety violations, the sponsoring organization must immediately suspend the home's CACFP participation prior to any formal action to revoke the home's licensure or approval. If the sponsoring organization determines that there is an imminent threat to the health or safety of participants at a day care home, or that the day care home has engaged in activities that threaten the public health or safety, and the licensing agency cannot make an immediate onsite visit, the sponsoring organization must immediately notify the appropriate State or local licensing and health authorities and take action that is consistent with the recommendations and requirements of those authorities. An imminent threat to the health or safety of participants and engaging in activities that threaten the public health or safety constitute serious deficiencies; however, the sponsoring organization must use the procedures for suspension to provide the day care home notice of the suspension of participation, serious deficiency, and proposed termination of the day care home's agreement.

Notice of Suspension, Serious Deficiency, and Proposed Termination

The sponsoring organization must notify the day care home that its participation has been suspended, that the day care home has been determined seriously deficient and that the sponsoring organization proposes to terminate the day care home's agreement for cause, and must provide a copy of the notice to MDE. The notice must:

- 1) specify the serious deficiency(ies) found and the day care home's opportunity for an administrative review of the proposed termination;
- 2) state that participation (including all Program payments) will remain suspended until the administrative review is concluded;
- 3) inform the day care home that if the administrative review official overturns the suspension, the day care home may claim reimbursement for eligible meals served during the suspension;
- 4) inform the day care home that termination of the day care home's agreement will result in the placement of the day care home on the National Disqualified List; and
- 5) state that if the day care home seeks to voluntarily terminate its agreement after receiving the notice of proposed termination, the day care home will still be terminated for cause and disqualified.

Agreement Termination and Disqualification

The sponsoring organization must immediately terminate the day care home=s agreement and disqualify the day care home when the administrative review official upholds the sponsoring organization=s proposed termination, or when the day care home=s opportunity to request an administrative review expires.

Program Payments

A sponsoring organization is prohibited from making any Program payments to a day care home that has been suspended until any administrative review of the proposed termination is completed. If the suspended day care home prevails in the administrative review of the proposed termination, the sponsoring organization must reimburse the day care home for eligible meals served during the suspension period.