

Sponsor Letterhead

Appeal Procedures for Family Day Care Home Providers

All family day care home providers who receive a notice of proposed termination and proposed disqualification (PTPD) in the Child and Adult Care Food Program (CACFP) for cause have the right to appeal the PTPD and request an administrative review (appeal). An appeal is a process by which an impartial hearing official reviews information provided by the CACFP sponsor of the family day care home 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 a venue for appealing the action of their CACFP sponsor.

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

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

Procedure

Notification, request, and procedure for hearing:

1. Whenever the sponsor takes action that will affect the participation of a provider in the CACFP, the sponsor will inform the provider in writing of the action and the grounds on which its decision is based. The sponsor will advise the provider of their right to appeal.
2. Upon receipt of the notice of PTPD, the provider must submit to the 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 sponsor via certified mail. The address is as follows:

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

The sponsor will forward the original copy of the appeal request to the hearing official via certified mail, along with the sponsor's supporting documentation for the action(s) taken against the provider.

3. The provider may refute the charges by providing additional written documentation to the hearing official in support of their appeal. All supporting documentation for the appeal must be filed with the sponsor within 15 calendar days of receipt of the PTPD. The sponsor will forward the information to the hearing official via certified mail no later than five calendar days after the request for appeal and additional written documentation from the provider is filed with the sponsor.

4. Any information on which the 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.
5. The hearing official will make a decision based solely on information provided by the sponsor, the provider, and on program regulations, federal and state laws, procedures governing the CACFP, and the permanent agreement with a sponsor.
6. The provider, the 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 calendar days from the date of the receipt of the request for appeal.
7. 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. In this case, a combined notice of Serious Deficiency, Suspension, and Proposed Termination and Proposed Disqualification will be sent. There is no opportunity for corrective action for Imminent Threat to Health and Safety. Providers continuing to operate while appealing the proposed termination will be reimbursed for any eligible meals served during the period of the appeal.
8. During the period of the review by the hearing official, the sponsor will not take action to collect or offset an overpayment noted in the PTPD letter.
9. The decision by the hearing official is the final administrative decision. There is no further opportunity to appeal to MDE.
10. If the provider loses the appeal, the termination date of the agreement is the date of the hearing official's decision.
11. The provider will be placed on the National Disqualified List (NDL) for a period of seven years, or until such time as the sponsor, in consultation with MDE, determines that the Serious Deficiency(ies) (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 – Combined Notice of SD, Suspension, Proposed Termination and Proposed Disqualification

Whenever a 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 provider is seriously deficient, and the sponsoring organization proposes to terminate the provider's agreement for cause and disqualify the provider. The notice must be sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile or by e-mail address **and** regular mail, and must describe the action proposed or taken by a sponsoring organization with regard to a provider's participation. The notice is considered received five calendar days after being sent. If the notice is undeliverable, it is considered received five calendar days after being sent to the addressee's last known mailing address, facsimile number, or e-mail address. A copy of the combined notice must also be sent to the Michigan Department of Education (MDE).

The Notice of PTPD or the Combined Notice of SD, Suspension, and PTPD must:

1. Specify the SD(s) found and state that the provider has the opportunity for an appeal of the PTPD from the CACFP.
2. Inform the provider that CACFP participation, including all payments, will remain suspended until a final decision is made by the hearing official (combined notice only).
3. Inform the provider that if the hearing official overturns the PTPD, the provider may claim CACFP reimbursement for eligible meals served during the suspension (combined notice only).
4. Inform the provider that termination of the CACFP agreement will result in being listed on the NDL. The provider will remain on this list for a period of seven years or until such time that the 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. 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 sponsor will request that MDE place the provider on the NDL.