

Child Foster Care Chemical Use Problems

Guidelines & Process

The following guidelines are provided to assist in determining when it may be appropriate to request a chemical use variance for applicants, license holders, or adult household members who are unable to demonstrate that they have been free of chemical use problems for two years pursuant to Minnesota Rules, part 2960.3060, subpart 3, paragraph C.

“Chemical use” includes use of alcohol, solvents, and other mood altering substances, including controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

PLEASE NOTE: for applicants, background studies must be completed (including completion of any requests for reconsideration) for all required individuals prior to requesting a chemical use variance.

A variance is required when:

- The individual has admitted to recreational drug use within the last two years and the agency does not have ongoing concerns about their chemical use. A substance use assessment would not be required, please proceed to Step 3.
- The substance use professional determines there is a chemical use problem, the individual has completed the chemical use problems variance request form, and has demonstrated a period of compliance with all recommendations from the assessment or the risk of harm is determined to be low.
- The substance use professional determines there **is not** a chemical use problem; however, recommendations are provided as a result of the evaluation.

A variance is not needed when:

- The substance use professional determines there is not a chemical use problem and no recommendations are made. If you have continued concerns about chemical use, consult with DHS.

A variance should not be considered:

- If the individual has submitted the chemical use problem variance request form but is not complying with recommendations from a substance use assessment (e.g. recommended to abstain from chemical use and continues to use). In this case the agency cannot ensure the safety of foster children and the licensing agency must consult with DHS-Foster Care to determine the next action.
- If your agency does not intend to support a variance to the chemical use issue, and plans to recommend a licensing action, you should not request a substance use assessment as this may be misleading to the individual. In this case, you should submit the licensing action recommendation after consulting with DHS.

Step 1: Determining if an individual has a chemical use problem

To help determine if the applicant, license holder, or adult household member has a chemical use problem, consider the following factors. Please note the list below is not all inclusive. If your agency has concerns not addressed below, please contact Foster Care to discuss:

- Has the individual been recommended to complete a substance use assessment and/or treatment within the past two years?
- Has the individual attended treatment for chemical dependency within the past two years? (This includes any treatment program related to alcohol, marijuana, prescription medication, or other illegal substance)
- Has the individual used chemicals (as defined above) while providing care and supervision to foster children to the extent that their use has or may have a negative effect on meeting the basic needs and assuring the safety of foster children? (As evidenced by reports of illegal drug use, alcohol intoxication, driving foster children while under the influence, etc.)
- Has the individual been charged with or convicted of driving while impaired (DWI) within the past two years? (If charged with a felony-level DWI, this would be a background study disqualification and a variance would not be granted unless there is also a disqualification variance granted)
- Has the individual admitted that they have used illegal chemicals in or out of the home in the past two years and the agency has ongoing concerns about chemical use? (If yes, move to step 2. If no ongoing concerns, move to step 3)
- Has the individual tested positive for non-prescribed controlled substances within the past two years and the agency has ongoing concerns about chemical use? (If yes, move to step 2. If no ongoing concerns, move to step 3)?

If you answered “yes” to any of the above questions and your agency would intend to recommend a chemical use variance, please proceed to step 2:

Step 2: Substance use assessment

- Request a new or previously completed substance use assessment by a qualified professional to determine if the individual’s use is a problem and/or recommendations are made. If the previous evaluation was completed within the past two years, but new chemical use concerns have occurred, a new evaluation must be requested. If the individual refuses to cooperate, the agency must consult with DHS Foster Care about possible licensing action.
- Ask the individual to sign a release of information to allow you to share collateral information (any evidence your agency has about the person’s chemical use, history of chemical use, and any other information that demonstrates that chemical use has impacted the individual in negative ways) with the evaluator and receive a copy of the chemical use assessment.

Step 3: Process for a chemical use variance

- 1) Once an agency has determined a chemical use variance is needed, the agency should provide the applicant/license holder/household member with the chemical use problems variance request form.
- 2) The individual completes the chemical use problems variance request form and sends the completed form and all applicable supporting documentation (e.g. substance use assessment, police reports, BCA, child and/or adult protection reports, evaluations, treatment records, support group attendance, letters of support, etc.) to the licensing agency.
- 3) The licensing agency reviews the request and all applicable supporting documentation
 - If a substance use assessment was required, part of the review is obtaining information that the individual is following the recommendations of the evaluation. For example, if the individual is recommended to complete a diagnostic assessment, the agency should get the diagnostic assessment and ensure the individual is following the recommendations of the assessment.
- 4) The agency completes the risk of harm (ROH) assessment and Recommendation form and submits the form and all supporting documentation to the Department of Human Services (DHS) by email to dhs.fostercarelicensing@state.mn.us
- 5) DHS will send written notification to the individual, the license holder and the licensing agency of the final decision.*

*The commissioner's decision to grant or deny a variance request is final and not subject to appeal.

This page is a visual interpretation of the same information discussed earlier in this document.

Has the individual been recommended to complete a substance use assessment and/or treatment within the past two years?

Has the individual attended treatment for chemical dependency within the past two years?

Has the individual used chemicals while providing care/supervision to foster children to the extent that their use has or may have a negative effect on meeting basic needs and assuring safety of foster children?

Has the individual admitted that they used illegal chemicals in or out of the home, in the past two years?

Has the individual tested positive for non-prescribed controlled substances within the past two years?

Has the individual been charged with or convicted of driving while impaired (DWI) within the past two years?

