

Family and Provider Appeal Rights

15.6

Family

When an action is taken against a family, provide the family with written information on:

- The right to an informal conference with the CCAP agency to attempt to resolve the dispute.
- The right to appeal to the CCAP agency or directly to the Department of Human Services (DHS) Appeals Division for a fair hearing.
- How to file an appeal.

[Appeal rights \(DHS-3353\)](#) explains family appeal rights and is printed on the back of notices issued by the Issuance Operation Center (IOC) in instances when a family has appeal rights. If a manual notice of adverse action or termination is sent to a family for an action against the family, include a copy of the [Appeal rights \(DHS-3353\)](#).

Families do not have appeal rights for actions taken against a provider.

Provider

A provider who receives child care assistance has different due process rights depending on the action taken. Providers do not have appeal rights for actions taken against a family.

Fair hearing

A provider may request a fair hearing for:

- Denial or closure of a registration, except when the action entitles the provider to a contested case hearing, an administrative review, or an administrative reconsideration (see below)
- The basis for an overpayment, amount of an overpayment, and the level of recoupment or recovery
- Ending a provider's rate differential for a Parent Aware rating or accreditation
- The start of an administrative disqualification (see information below about administrative disqualification hearings)
- Disagreement over the amount a provider was paid.

When an adverse action is taken against a child care provider, and the provider has a right to a fair hearing, provide the provider with written information on:

- The right to appeal to the Department of Human Services (DHS) Appeals Division for a fair hearing.
- The time frame in which the provider must request an appeal in order to be considered timely.
- The items that must be included in the provider's appeal request.

[Appeal rights for Child Care Assistance Program providers \(DHS-4018\)](#) explains provider appeal rights and is printed with adverse action notices issued by the Issuance Operation Center (IOC) in instances when a provider has a right to a fair hearing. If a manual notice of adverse action is issued to a provider for an action against the provider, include a copy of the [Appeal rights for Child Care Assistance Program providers \(DHS-4018\)](#).

For appeals if a provider disagrees with an amount they were paid:

- These are not considered adverse actions. Providers receive notice of their right to appeal a payment amount at application and redetermination.
- Appeal requests must be received by the DHS Appeals Division within 30 days of the date CCAP sends the Remittance Advice for that payment.

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If a child care provider's registration was denied or closed based on a licensing action, the child care assistance appeal will happen after a final decision is reached about the license.

A Human Services Judge assigned to a fair hearing may join a family or a provider as a party to the fair hearing whenever joining of that party is necessary to fully and fairly resolve overpayment issues raised in the appeal.

Contested case hearing

A provider may request a contested case hearing when state staff sends a notice of disenrollment, revocation or suspension a license, disqualification, or debarment under a specific law that allows DHS or DCYF to take action when a provider has been excluded from any publicly funded program administered by DHS, DCYF, or another state or federal agency.

For information on:

- How a provider may request a contested case hearing see Chapter 15.9 ([Appeal Requests](#))
- Notice requirements for contested case hearings see Chapter 12.6.9 ([Termination Notices – Provider](#)).

Administrative review or administrative reconsideration

When a provider's registration is closed or denied and payments are immediately stopped due to findings of violations in an investigation and/or a credible allegation of fraud, depending on the circumstances, the provider may request either an administrative review or administrative reconsideration.

An administrative review may be requested when a provider's payments are stopped because:

- The provider admitted to intentionally giving the county materially false information on its billing forms.
- DHS or DCYF found by a preponderance of evidence that the provider intentionally gave the county materially false information on its billing forms or attendance records; or
- DHS or DCYF finds the provider is improperly recruiting employees.

An administrative reconsideration may be requested when a provider's payments are stopped because DHS or DCYF determines there is a credible allegation of fraud for which an investigation is pending for a program administered by a Minnesota state or federal agency.

Both administrative reviews and administrative reconsiderations are processes that allow a provider whose child care assistance payments are temporarily suspended to submit written proof and argument for consideration by the DHS or DCYF. These are not formal hearings.

In situations when a provider may request an administrative review, the provider's registration stays closed and payments are stopped until:

- The DHS, DCYF, or a law enforcement authority determines there is insufficient evidence to continue the action; or DHS or DCYF decides not to pursue further administrative remedy under Minnesota Statutes, chapter 245E or section 256.98; or
- All criminal, civil, or administrative proceedings related to the alleged misconduct have concluded and all appeal rights have been exhausted.

Also see [Administrative review rights for Child Care Assistance Program providers \(DHS-7397\)](#), which explains provider administrative review rights.

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In situations when a provider may request administrative reconsideration, the provider's registration stays closed and payments are stopped until:

- DHS or DCYF determines there is insufficient evidence of fraud.
- All criminal, civil, or administrative proceedings related to the alleged fraud are completed;
- And any other requirements or procedures for reinstatement provided in the initial notice have been satisfied.

Within 60 days of receiving the provider's request for administrative reconsideration, DHS will review all information available (including information the provider submitted) to determine whether to continue withholding payments.

For information on:

- How a provider may request an administrative review or administrative reconsideration, see Chapter 15.9 ([Appeal Requests](#))
- Notice requirements for administrative reviews and administrative reconsiderations, see Chapter 12.6.6 ([Adverse Action Notices – Provider](#)).

Administrative disqualification hearing

A provider who has been issued a Notice of Administrative Disqualification has the right to a fair hearing to challenge the disqualification. See Chapter 13.9.3 ([Administrative Disqualification – Providers](#)).

For information on:

- How a provider may request an administrative disqualification hearing, see Chapter 15.9 ([Appeal Requests](#))
- Notice requirements for administrative disqualification hearings, see Chapter 12.6.9 ([Termination Notices – Provider](#)).

Reconsideration for a child care assistance correction order

A provider may request reconsideration if they believe the DHS or DCYF mistakenly cited child care assistance violations in an order of corrective action.

For information on:

- How a provider may request reconsideration for a correction order, see Chapter 15.9 ([Appeal Requests](#))
- Notice requirements for reconsiderations for correction orders, see Chapter 12.6.10 ([Correction Order Notices – Provider](#)).

Legal authority

Minnesota Statutes 142A.12

Minnesota Statutes 142A.20

Minnesota Statutes 142E.18

Minnesota Statutes 142E.19

Minnesota Statutes 142E.20

Minnesota Statutes 245.095

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Minnesota Statutes 245E.02, subds. 3a & 4

Minnesota Statutes 245E.06, subd. 3

Minnesota Statutes 256.045

Minnesota Statutes 256.046

Minnesota Rules 3400.0230