



Family Day Care Home Child and Adult Care Food Program Appeal Procedures

The following appeal procedures established in accordance with Sections 226.6, 226.16 and 226.18 of the Child and Adult Care Food Program regulations, as amended by Section 243(c)(5)(D) of Public Law 106-224, shall apply to any family day care home provider requesting a review of the Notice of Proposed Termination and Disqualification from participation in the Child and Adult Care Food Program (CACFP).

The Notice of Proposed Termination and Disqualification from CACFP participation by the responsible Sponsoring Organization of Day Care Homes shall be based on the following standards:

submission of false information on the *CACFP Home Provider Application*; submission of false claims for reimbursement; simultaneous participation under more than one sponsoring organization; non-compliance with the Program meal pattern; failure to keep required records; conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health and safety; 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, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity as defined by the State agency, or the concealment of such a conviction); failure to participate in training; or any other circumstance related to non-performance under the *CACFP Sponsor - Home Provider Agreement*, as specified by the sponsoring organization or the State agency.

PROCEDURE:

1. The family day care home provider shall be advised in writing of the grounds on which the Sponsoring Organization based the Proposed Termination and Disqualification Notice. The Proposed Termination and Disqualification Notice, which shall be sent by certified mail, return receipt requested, an equivalent private delivery service (such as FedEx), fax or email as required by 226.2 (definition of "notice" in the CACFP regulations), shall also include a statement indicating that the family day care home provider has the right to appeal the action. If the notice is undeliverable, it is considered to be received by the day care home five days after being sent to the addressee's last known mailing address, facsimile number or email address.
2. An appeal (a written request for review) shall be filed by the family day care home provider within 10 calendar days from the date the family day care home provider received the notice of action. The day care home may review the record on which the decision to issue a Notice of Proposed Termination and Disqualification was based, and refute the action in writing. The family day care home provider may retain legal counsel or may be represented by another person. The Sponsoring Organization shall acknowledge the receipt of the request for appeal within 10 calendar days of receipt of the written request. **The written request for review must be submitted to:**

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3. Any information on which the Sponsoring Organization's action was based shall be available to the family day care home provider for inspection from the date of receipt of the request for review.

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4. The family day care home provider may refute the charges contained in the notice of action in person at a hearing, if requested in writing by the family day care home provider and agreed to by the administrative review official, and/or by written documentation to the administrative review official. (The administrative review official is not required to hold a hearing.) In order to be considered, written documentation must be filed with the administrative review official within 30 calendar days after the Sponsoring Organization receives the request for review (appeal request) from the family day care home provider.
5. If requested by the family day care home provider and agreed to by the administrative review official, a hearing shall be held by the administrative review official in addition to, or in lieu of, a review of written information submitted by the family day care home provider. The Review Committee Official shall inform the family day care home provider, the Sponsoring Organization, the President and Vice President of the WI CACFP Sponsors Forum and the Wisconsin Department of Public Instruction/Community Nutrition Team of the time, place and date of the hearing at least 10 calendar days prior to the hearing. The notice shall be sent by certified mail.
6. Failure of the family day care home provider's representative to appear at a scheduled hearing shall constitute the family day care home provider's waiver of the right to a personal appearance before the administrative review official, unless the review official agrees to reschedule the hearing. A representative of the Sponsoring Organization shall be allowed to attend the hearing to respond to the family day care home provider's testimony, present evidence, and to answer questions posed by the administrative review official.
7. The administrative review official shall be an independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of this section. The administrative review official shall not have been involved in the action that is the subject of the administrative review, or have a direct personal or financial interest in the outcome of the administrative review.
8. The administrative review official shall make a determination based on information provided by the Sponsoring Organization, the family day care home provider, and on Federal and State laws, regulations, policies, and procedures governing the Program.
9. Within 70 calendar days of the Sponsoring Organization's receipt of the request for review/appeal, the review official shall inform the Sponsoring Organization, the family day care home provider, and the Wisconsin Department of Public Instruction/Community Nutrition Team of the determination of the administrative review.
10. Participating family day care homes may continue to operate under the Program during an appeal of the Proposed Termination and Disqualification unless the action is based on imminent danger to the health or welfare of children or when the day care home's activities pose a threat to public health or safety. If the institution or facility has been terminated for this reason, the Sponsoring Organization shall so specify in your notice of action. Program payments will continue for claims supported by appropriate records pending the outcome of the administrative review.
11. The determination by the Sponsoring Organization administrative review official is the final administrative determination to be afforded to the family day care home provider.