Missouri Department of Health and Senior Services
Child and Adult Care Food Program

Appeal Flyer

Appeals of the Department of Health and Senior Services (DHSS) actions are conducted before an independent administrative hearing officer in the DHSS Appeals Unit. To contact the DHSS Appeals Unit, call (573) 522-1699, fax (573) 751-0247, or email DHSS.Appeals@health.mo.gov.

What can be appealed?
A sponsor may appeal any of the following actions the DHSS takes relating to its participation in the Child and Adult Care Food Program (CACFP) or claims for reimbursement [7 CFR § 226.6(k)(2)]:

- Denial of a new or renewing sponsor's application for participation.
- Denial of an application submitted by a sponsoring organization on behalf of a facility.
- Notice of proposed termination of a sponsor's agreement.
- Notice of proposed disqualification of a responsible principal or responsible individual.
- Suspension of a sponsor's participation in the program.
- Denial of a sponsor's application for start-up or expansion payments.
- Denial of a request for an advance payment.
- Recovery of all or part of an advance in excess of the claim for the applicable period.
- Denial of all or a part of a sponsor's claim for reimbursement (except for a denial based on a late submission under 7 CFR § 226.10(e)).
- Decision by the DHSS not to forward to the USDA's Food and Nutrition Administration (FNA) an exception request by a sponsor for payment of a late claim, or a request for an upward adjustment to a claim.
- Demand for the remittance of an overpayment.
- Any other DHSS action affecting a sponsor's participation or its claim for reimbursement.

What cannot be appealed?
A sponsor ***cannot*** appeal any of the following actions [7 CFR § 226.6(k)(3)]:

- A decision by the FNA to deny an exception request by a sponsor for payment of a late claim, or for an upward adjustment to a claim.
- A determination that a sponsor is seriously deficient.
- A determination by the DHSS that the corrective action taken by a sponsor or by a responsible principal or responsible individual does not completely and permanently correct a serious deficiency.
- Disqualification of a sponsor or a responsible principal or responsible individual, and the subsequent placement on DHSS' Seriously Deficient List and the FNA National Disqualified List (NDL).
- Termination of a participating sponsor's agreement, including termination of a participating sponsor's agreement based on the disqualification of the sponsor by another state agency or the FNA.
- A determination, by either the DHSS or by the FNA, that the corrective action taken by a sponsor or a responsible principal or responsible individual is not adequate to warrant the removal of the sponsor or the responsible principal or responsible individual from the NDL.
- The DHSS' refusal to consider a sponsor's application when either: 1) the sponsor or one of its principals is on the NDL list; or 2) the facility or one of its principals is on the NDL.

How can a sponsor appeal?

- Appeal requests must be ***in writing.***
- A sponsor can either:
  - Email the appeal request to CACFP@health.mo.gov.
  - Fax the appeal request to 573-526-3679.
  - Mail the appeal request to:

    Missouri Department of Health and Senior Services
    Community Food and Nutrition Assistance
    ATTN: CACFP Appeals
    PO Box 570
    Jefferson City, MO 65102

- The DHSS must ***receive*** the appeal request ***no more than 15 calendar days*** after the sponsor receives the notice of DHSS' action.

What should a sponsor include in its appeal request?

- The sponsor's name, telephone number, and mailing address.
- The name and title (printed or typed) of the sponsor's contact person or authorized representative (if applicable).
- The DHSS action(s) that the sponsor is appealing, the reason(s) the sponsor is appealing, and the action(s) the sponsor wants the DHSS to take instead (i.e., the remedy the sponsor is seeking).
- Whether the sponsor is requesting an abbreviated administrative review and/or an administrative hearing, unless the action being appealed is one that must go through abbreviated review.

What are the types of administrative review?

- ***Abbreviated administrative review****:* a review of written documentation only.
  - In an abbreviated review, both the sponsor and the DHSS submit written documentation and information for the hearing officer to consider when deciding the appeal.
  - A sponsor requesting a written review may choose to have an abbreviated administrative review even if it is entitled to a full, in-person hearing.
  - If the DHSS denies the sponsor's application or proposes to terminate a sponsor's CACFP participation based on any of the following reasons, the appeal ***must*** be an abbreviated administrative review:
    - Submission of false information on the application.
    - The sponsor or one of its principals or its facilities is on the NDL.
    - The sponsor or one of its principals or one of its facilities is ineligible to participate.
    - The sponsor or one of its principals or one of its facilities has been convicted for any activity that indicates a lack of business integrity.
  - To be considered by the hearing officer, the sponsor must submit all written documentation and information in support of its appeal to the hearing officer ***within 30 calendar days*** from the date the sponsor receives the notice of DHSS' action.
  - A sponsor ***cannot*** request an in-person administrative hearing after the abbreviated administrative review has taken place.
- ***Administrative hearing*****:** an in-person hearing at which the sponsor and the DHSS submit verbal testimony and evidence.
  - The Appeals Unit hearing officer can hold a hearing in addition to, or instead of, an abbreviated administrative ***review only if it qualifies for an administrative hearing and the sponsor requests a hearing in its appeal request***.

Additional information:

- The DHSS will send the sponsor a letter acknowledging receipt of the appeal request within 10 days of receiving the request.
- The Appeals Unit hearing officer will send the sponsor a letter giving the date, time, and location of the administrative hearing (if an administrative hearing was requested) and/or the date any written documentation and information in support of the sponsor's appeal is due and submission information.
- If the sponsor requests an administrative hearing and fails to appear at the hearing, the sponsor waives the right to an in-person appearance before the Appeals Unit hearing officer unless the hearing officer agrees to reschedule the hearing.
- The sponsor may retain private legal counsel or may be represented by another person. *7 CFR 226.6(k)(5)(iii).*
- The DHSS will have legal counsel representation for both in-person hearings and abbreviated administrative reviews.
- The Appeals Unit hearing officer must make a decision within 60 days of the date DHSS receives the sponsor's appeal.

Remember these deadlines:

- The DHSS must receive the sponsor's appeal request within ***15 calendar days*** of the sponsor receiving notice of the DHSS' action(s).
- The sponsor must submit any written documentation to the hearing officer within ***30 calendar days*** of receiving the DHSS notice of action.

For more information: Call the DHSS at 800-733-6251.

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