



Department of Human Development  
Box 2218  
South Dakota State University  
Brookings, SD 57007  
(605) 688-5730 or 1-800-354-8238

## APPEAL PROCEDURES

### For Family Day Care Homes and Group Family Day Care Home Providers Appeal of Sponsoring Organization Action

#### 1. Action Which Can Be Appealed.

In accordance with Section 243(d) of Public Law 106-224, a day care home provider, hereinafter referred to as the provider, may appeal the following adverse action made by the Family Resource Network hereinafter referred to as the Sponsoring Organization (SO):

- (a) Termination of the participation of a provider;

#### 2. Manner of Filing an Appeal.

- A. A provider aggrieved by the adverse action of the Sponsoring Organization, listed above, may appeal such action as outlined in 2B through 2D, below. The appeal must be sent via certified mail to, or filed in person with, Child and Adult Nutrition Services - DOE, 800 Governors Drive, Pierre, South Dakota 57501-2294.
- B. The appeal must be in writing and must state the name and address of the day care home and the name and title of the person who signed the appeal. The provider must sign the appeal. It need not be signed under oath.
- C. The appeal must be postmarked or received by Child and Adult Nutrition Services, hereinafter referred to as CANS, prior to midnight of the 15th calendar day after receipt of the notice of adverse action. If the 15th day falls on Saturday, Sunday, or federal legal holiday, the appeal will be considered timely if it is postmarked or received the next day which is not a Saturday, Sunday, or federal legal holiday.
- D. The appellant must provide 4 copies of written documentation.
- E. A provider, who has filed an appeal, will be afforded the opportunity to examine and copy the information in the SO files upon which the adverse action was based.
- F. The provider may represent him/herself during the review process, be represented by legal counsel at his/her own expense, or be represented by another person.

#### 3. Content of Appeal.

- A. At a minimum, the appeal must:
  - (1) clearly identify the adverse action being appealed, the basis of the provider's appeal, and the relief or remedy sought; and
  - (2) include the date of the letter or other such written communication from the SO notifying the provider of the proposed adverse action, and the name and title of the SO official who signed such letter or communication.

- B. The impartial Review Board will review all documentation on both sides before making a final determination.
  - C. An appellant provider must submit 4 copies of written information in support of his/her position at the time that he/she files the appeal.
4. Procedures for Handling an Appeal.
- A. CANS will receive and log each appeal. If the appeal is timely and the action taken by the Sponsoring Organization meets criteria for an appealable action, the appeal will be assigned to the Review Board.
  - B. CANS will acknowledge all appeals in writing within 15 calendar days of receipt. CANS will also notify appellants, via certified mail, if their case has been assigned to the Review Board. A copy of this letter will be sent, via certified mail, to the SO. The SO must submit documentation in support of the decision to CANS within 15 calendar days of receipt of this notification letter.
5. Determination of the Review Board.
- A. The Review Board shall make a written determination based upon
    - (1) Written information submitted by the provider in support of his/her position;
    - (2) Written information submitted by the SO;
    - (3) Such additional written information as may be obtained by the Review Board from any other person or persons having relevant and pertinent information; and
    - (4) Federal and State laws, regulations, policies, and procedures governing the Program.
  - B. Within 60 calendar days from receipt of the appeal in the CANS office, the Review Board will make a determination on the action under appeal in accordance with the regulations governing the Child and Adult Care Food Program. This determination is the final administrative decision on the matter. It is not subject to further administrative review or reconsideration.
  - C. The Review Board's determination will be sent via certified mail-return receipt requested to the appellant provider or his/her representative. A copy will also be sent to the SO. The determination will take effect immediately upon receipt by the appellant provider or his/her representative.
  - D. The determination of the Review Board shall either sustain the termination or shall direct that the provider be permitted to continue participation in the Program.
6. Legal Advice.

If an appeal involves any doubtful questions of law, the Review Board will obtain the advice of the Office of the Attorney General, State of South Dakota.