



Child Care Food Program

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

The contractor is entitled to administrative review of Department of Health (DOH) actions, as provided by Title 7 Code of Federal Regulations Part 226, which affect the Contractor's participation or reimbursements in the Child Care Food Program, including, but not limited to, proposed termination and disqualification. To obtain an administrative review, the Contractor and/or Responsible Principals or Responsible Individuals ("RPIs") **must** (1) submit a request in writing within 15 days after receiving of the Department's proposed action (see attached Review Forms and/or Meal Disallowance Forms which are incorporated herein by reference) **and** (2) include sufficient information to explain any disagreement with the Department's proposed action. The written request must be submitted within the 15-day period to:

Agency Clerk
Department of Health
4052 Bald Cypress Way, Bin No. A-02
Tallahassee, Florida 32399-1703
Telephone No. 850-245-4005
Facsimile No. 850-410-1448

To provide "sufficient information" in the request, the Contractor and/or RPI's must state: (a) whether they disagree or agree with some or all of the statements, facts, or conclusions in the Department's proposed action; and (b) what specific statements, facts, or conclusions are believed to be incorrect or correct, and why. In addition, it is critical that the written request include the information required by Rule 28-106.201(2)(a)-(g) or Rule 28-106.301(2)(a)-(h), Florida Administrative Code, as applicable (<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=28-106>).

If a timely written request for administrative review is submitted, the Agency Clerk will acknowledge receipt of the request within 10 days. If the request contains "sufficient information" as described above, the Agency Clerk will appoint an administrative review official ("ARO") to conduct an administrative review. After appointment of the ARO, the Contractor and RPI's must submit written documentation to the ARO, in opposition to the proposed Department action, within 30 days after receipt of the Department's proposed action.

If a written request is not received by the Department within the 15-day period, the Contractor and/or RPI's will have waived their right to an administrative review. In this instance, the Department will notify the Contractor and/or RPI's that the review is no longer authorized and that the Department's proposed action has taken effect.

A hearing will be held in addition to, or in lieu of, a review of written information only if it is not excluded by Title 7 Code of Federal Regulations 226.6(k)(9) and the Contractor and/or RPI's request such a hearing in the initial written request for administrative review. The ARO may consider any evidence that he or she determines is credible, trustworthy, and would reasonably be relied upon by a prudent person in the conduct of his or her normal daily activities. Either party may be represented by counsel. If a hearing is requested, the parties may call witnesses to testify and may cross examine witnesses. Witnesses may testify by telephone and may be sworn over the telephone and be permitted to testify in narrative form. The ARO will issue a decision within 60 days of the Department's receipt of a timely filed written request for administrative review. However, if the decision is issued after the 60th day, this may not be used as a basis for overturning the Department's action.

The ARO's decision is the final administrative determination to be afforded to the Contractor and/or RPI's. The termination of Contractor's contract with the Department upon rendition of a Final Order shall not be automatically stayed pending any appeal of or challenge to the Final Order. Such stay may only be obtained by filing a Motion for Stay Pending Appeal with the ARO. Should the ARO grant the Stay, the Contractor shall be permitted to continue to participate and receive Program reimbursement for eligible meals served and allowable administrative costs incurred until the time for appeal has expired, the administrative review is completed, or the appeal is dismissed. The Contractor shall waive its right to seek such Stay if it fails to file a Motion for Stay within the period authorized in Sec. 120.68 F.S. The Contractor waives its right to appeal the Final Order if it fails to file one copy of a Notice of Appeal with the Agency Clerk of the DOH and a second copy, accompanied by the filing fees required by law, with the First District Court of Appeal, Tallahassee, Florida. The Notice of Appeal must be filed within 30 days of the rendition of the ARO's Final Order.