



Child Care Food Program

PROCEDURES FOR SEEKING ADMINISTRATIVE REVIEW

The Institution, Responsible Principals, and Responsible Individuals (RPIs) are not entitled to administrative review of a Notice of Serious Deficiency. The Institution and RPIs are entitled to administrative review of other Department actions, as provided by Title 7 Code of Federal Regulations Part 226, which affect participation or reimbursements in the Child Care Food Program, including but not limited to proposed termination and disqualification.

The institution's executive director and chairman of the board of directors, and the responsible principals and responsible individuals (RPIs), must be given notice of the action being taken or proposed, the basis for the action, and the procedures under which the institution and the RPIs may request an administrative review of the action.

If no written request is submitted or if the written request is not received within 15 days of your receipt of the Department's notice, then the institution and RPIs will have waived their right to administrative review and the Department's proposed action will become effective.

In order to receive an administrative review, you must comply with the following requirements of Title 7 CFR Part 226, and the Department of Health.

- 1). A written request for administrative review must be received by the Department's Agency Clerk no later than **15 days** of your receipt of this Notice.
- 2). The written request must not be emailed. It must be hand-delivered, mailed, or faxed to:

For Mailing or Fax:

Agency Clerk
Department of Health
4052 Bald Cypress Way, Bin No. A-02
Tallahassee, Florida 32399-1703
Telephone No. 850.245.4005
Facsimile No. 850.413.8743

For Hand-Delivery:

Agency Clerk
Department of Health
2585 Merchants Row Boulevard, Suite 110H
Tallahassee, Florida 32399

- 3). If you **disagree** with any part of this proposed action which affects your participation and/or reimbursement, your written request for administrative review must include all of the information listed below in (a) through (g).

- (a) Refer to the Department of Health.
- (b) State your name, current address, e-mail address, facsimile number and telephone number (your contact information).

*However, if you are represented by an attorney or qualified representative, include the contact information of the attorney or qualified representative.

And describe how your interests are affected (harm or changed) by the proposed action.

- (c) State when you received this notice of action and how you received it (mail, UPS, e-mail, fax, etc.).
- (d) List the key facts or parts of the proposed action you disagree with (if none, state there are none).
- (e) List the key facts you believe are the most important in your case and state which ones show that you should win the case.

- (f) If you know of any statutes or rules that you believe are in your favor, list them and how they apply to the facts of your case.
- (g) State what you want the Department to do in your case.
- 4). If you **agree** with the identified deficiencies but disagree with the proposed action which affects your participation and/or reimbursement, the written request must include all of information listed below in (a) through (h).
- (a) Refer to the Department of Health.
- (b) State your name, current address, e-mail address, facsimile number and telephone number (contact information).
- *However, if you are represented by an attorney or qualified representative, include the contact information of the attorney or qualified representative.
- (c) Describe how your interests are affected (harmed or changed) by the proposed action.
- (d) State when you received this notice of action and how you received it (mail, UPS, e-mail, fax, etc);
- (e) List the key facts you believe are the most important in your case and state which ones show that you should win the case.
- (f) If you know of any statutes or rules that you believe are in your favor, list them and how they apply to the facts of your case.
- (g) State what you want the Department to do in your case.
- (h) Confirm that you agree with all of the identified deficiencies. (However, if you do not agree with the NSD, comply with (3)(a)-(g), above.)
- 5). If you wish to appear **in-person** at a hearing with the Department and the Administrative Review Official, the request for administrative review must include a request for an "in-person" hearing.

NOTE: In accordance with 7 CFR 226.6(k)(9), the state agency **must limit the administrative review to a review of written submissions (no in-person hearing)** in the following cases:

- The information submitted on the application is false;
- The institution or one of its principals is on the National Disqualified List;
- The institution or one of its principals has been declared to be ineligible for another publicly funded Program during the prior seven years; or
- The institution or one of its principals has been convicted of an activity in the past seven years that indicated a lack of business integrity.

If the request for administrative review is received by the Agency Clerk within 15 days of receipt of this Notice:

1. The Agency Clerk will review the request to determine substantial compliance with Department of Health's requirements as set forth in sections (1) through (5), will acknowledge receipt of the request within 10 days. If the request is in substantial compliance, the Agency Clerk will grant the request and appoint an administrative review official (ARO).
2. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.
3. Any information on which the Department's action was based must be available to the institution and the responsible principals and responsible individuals for inspection from the date of receipt of the request for an administrative review.
4. The institution and the responsible principals and responsible individuals may refute the findings contained in the notice of action in person or by submitting written documentation to the ARO. In order to be considered, written documentation must be submitted to the ARO not later than 30 days after receipt of the notice of action.

5. An in-person hearing will be held in addition to or instead of a review of documents **only if the contractor or a named individual request an in-person hearing when requesting administrative review within 15 days of receipt of this letter and the request meets the requirements for an in-person hearing.** If the institution's representative, or the responsible principals or responsible individuals or their representative, fail to appear at a scheduled hearing, they waive the right of a personal appearance before the ARO, unless the ARO agrees to reschedule the hearing. A representative of the CCFP must be allowed to attend the hearing to respond to the testimony of the institution and the responsible principals and responsible individuals and to answer questions posed by the ARO. If a hearing is requested, the institution, the responsible principals and responsible individuals, and the CCFP must be provided with at least 10 days advance notice of the time and place of the hearing.
6. The ARO must be independent and impartial. This means that, although the ARO may be an employee of the Department of Health, he/she must 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. The institution and the responsible principals and responsible individuals must be permitted to contact the ARO directly if they so desire.
7. The ARO must make a determination based solely on the information provided by the CCFP, the institution, and the responsible principals and responsible individuals, and based on Federal and State laws, regulations, policies, and procedures governing the CCFP.
8. The administrative review official must issue a decision to the CCFP, the institution's executive director and chairman of the board of directors, and the responsible principals and responsible individuals within 60 days of the Agency Clerk's receipt of a written request for administrative review. The 60 days will begin to run when the Agency Clerk receives a written request that is in substantial compliance with paragraphs (1) through (5) of this section.
9. The contractor may continue to participate and receive program reimbursement for eligible meals served and allowable costs incurred until the administrative review is completed.
10. The ARO's determination is the Department's Final Order and is the final administrative determination to be afforded to the contractor and responsible principals and individuals by the Department of Health.