



Serious Deficiency Procedures for Home Providers

REGULATORY CITATIONS OF SERIOUS DEFICIENCIES FOR HOME PROVIDERS

As follows:

- Submission of false information on the *CACFP Home Provider Application* [7 CFR 226.16(l)(2)(i)]
- Submission of false claims for reimbursement [7 CFR 226.16(l)(2)(ii)]
- Simultaneous participation under more than one sponsoring organization [7 CFR 226.16(l)(2)(iii)]
- Non-compliance with the Program meal pattern [7 CFR 226.16(l)(2)(iv)]
- Failure to keep required records [7 CFR 226.16(l)(2)(v)]
- Conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health and safety [7 CFR 226.16(l)(2)(vi)]
- 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 [7 CFR 226.16(l)(2)(vii)]
- Failure to participate in training [7 CFR 226.16(l)(2)(viii)]
- Any other circumstance related to non-performance under the *Sponsor-Home Provider Agreement*, as specified by the sponsoring organization or the State agency [7 CFR 226.16(l)(2)(ix)].

TEMPLATE LETTERS

Sponsors must use DPI's template letters for all formal correspondence sent to the provider throughout the serious deficiency process.

→ Click on the following link for [DPI's Template letters](#)

The appropriate regulatory citation(s) must be copied and pasted into the template letters for each of the serious deficiencies with which the provider is found to be substantially non-compliant.

PROCEDURES

1. Review and investigate substantive Program violations resulting in a serious deficiency(ies) cited in USDA regulations, as listed above.
2. Send letter to the Provider notifying them of the declaration of serious deficiency. **TEMPLATE 1**
3. **Corrective Action Plans (CAPs)**
Unless the violations relate to health and safety, the Provider must be given opportunity to develop and implement a corrective action plan.
 - **Submission of false claims for reimbursement** [serious deficiency 7 CFR 226.16(l)(2)(ii)]: The only acceptable corrective action to this serious deficiency is for the Provider to demonstrate that the Sponsor has made an administrative error, has confused two providers with similar or identical names, and/or received inaccurate information from the parents contacted through the household contact process.
 - See **Health and Safety Issues** below for the procedures to follow when there is imminent threat to the health and safety of children in care or when the provider has engaged in activities which threaten the public health or safety.

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- **Provider Date of Birth (DOB):** If the sponsor does not already have on file the provider's DOB, the corrective action plan must include a requirement that the provider submit their DOB.
 - **Under no circumstances may the time allotted for the corrective action plan exceed thirty (30) business days.**
- A. If the provider submits an acceptable corrective action plan, then **TEMPLATE 3**.
- B. If the provider submits an unacceptable corrective action plan, then **TEMPLATE 4** – along with a corrective action plan prepared by the Sponsor that is acceptable. This acceptable corrective action plan must be signed and returned.
- When the acceptable corrective action plan is signed and returned, then **TEMPLATE 3a**.

4. Notice of Proposed Termination and Disqualification

This notice and the [Family Day Care Home Appeal Procedures](#) are sent when the following has occurred:

- A. If the provider fails to sign and return the sponsor's prepared corrective action plan, then **TEMPLATE 2c**.
- B. If the provider fails to submit a corrective action plan at all, then **TEMPLATE 2**.
- C. If the provider fails to implement their submitted corrective action plan, therefore not resolving the serious deficiency finding(s):
- **TEMPLATE 2a** (if the provider had written their own CAP)
- OR
- **TEMPLATE 2b** (if the sponsor had prepared the CAP that the provider signed/returned)

5. Appeals

A. Appeal Request

If the provider submits an appeal request (administrative review) after receiving Template 2, 2a, 2b, or 2c, then the sponsor must schedule the review and give the provider 10-day notice. See the [Family Day Care Home Appeal Procedures](#).

→ **DPI must be notified in writing by the sponsor whenever a provider requests an appeal.**

If a review is requested but a hearing is not requested, an administrative review official should conduct the review. (A hearing is only required if requested by the provider and agreed to by the administrative review official.)

B. Administrative Review Official's Written Decision

The administrative review official should prepare a written decision either upholding the termination (**TEMPLATE 5c**) or denying the termination (**TEMPLATE 7**).

There is no further administrative review. A copy of the written decision must be submitted to the DPI.

6. Termination Notice

This notice is sent to the provider when the following has occurred:

- A. If the termination is upheld by administrative review official (Template 7 was sent - see above for *Appeals*)

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- B. If the provider does not file an appeal, a final decision terminating the Provider from the CACFP must be made by the Sponsor. The Sponsor must issue the termination letter.
- If the Provider received Template 2 then use [TEMPLATE 5](#) to terminate.
 - If the Provider received Template 2a or 2b, then use [TEMPLATE 5a](#) to terminate.
 - If the Provider received Template 2c then use [TEMPLATE 5b](#) to terminate.

IMMINENT THREAT TO HEALTH AND SAFETY PROCEDURES

1. If the violations relate to an imminent threat to the health and safety of the children at the day care home, or if the provider has engaged in activities which threaten the public health or safety, the Sponsor **must** declare the provider seriously deficient, provide written Notice of Proposed Termination and Disqualification of the provider's agreement for cause, and suspend Program payments pending the completion of the provider's administrative review (if requested).

Use [TEMPLATE 6](#) to immediately suspend for violations related to health and safety and provide Notice of Proposed Termination and Disqualification.

2. If the provider files an appeal after receiving [TEMPLATE 6](#), then an administrative review must be scheduled and the provider must be given 10 days notice. See [Family Day Care Home Appeal Procedures](#). If a review is requested but a hearing is not requested, an administrative review official should conduct the review.

3. The administrative review official should prepare a written decision either upholding the proposed termination or denying the proposed termination.

There is no further administrative review. A copy of the written decision must be submitted to the DPI.

4. Termination

A Termination notice is to be sent using [TEMPLATE 6a](#) when the following occurs:

- If the provider does not file an appeal
- If the proposed termination is upheld by the administrative review official

REQUIRED SUBMISSION TO DPI

The Sponsor must submit the following to DPI:

- Copies of all correspondence sent to the provider throughout the serious deficiency process regardless of termination
- Written notification when a provider requests for an appeal and the administrative review official's written decision to uphold or deny the termination

NATIONAL DISQUALIFIED LIST (NDL)

DPI must submit the terminated provider's name, address, date of birth and serious deficiency correspondence to USDA for placement on the National Disqualified List.