



## Child and Adult Care Food Program

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### Policies and Procedures

#### Corrective Action Policies

**What are Corrective Actions?** Corrective actions are a standardized set of procedures developed for the State of Washington to protect the integrity of the CACFP, the program sponsors, and participating childcare providers.

**CACFP:** By guarding against abuse, either accidental or deliberate, this policy protects the integrity of the program guaranteeing funds are used as they are meant to be for the improvement and maintenance of good nutrition for children in family childcare homes. This helps protect against funding cuts and increased regulation.

**Program Sponsors:** The policy guarantees each sponsor will take consistent actions for specific problems, so each sponsor can act with confidence that they are protecting the integrity of the CACFP and providers are being treated consistently.

**Child Care Providers:** This policy sets specific actions to be taken under various circumstances. The actions are designed to determine the extent of problems and to prevent their recurrence by providing technical assistance and supervision. Providers are guaranteed the actions taken in their case have been carefully considered and are the same for any provider under any sponsor, that sponsors must allow them a chance to correct mistakes, and that they have the right to an appeal “to provide a full and true disclosure of the facts”. The only exception is if the children’s health or safety is endangered in which case there is no “second chance”.

**Preventing Corrective Active Deficiencies:** Most corrective action problems can be avoided by following their basic rules.

- Record attendance and food served accurately and promptly- but never in advance.
- Record arrival and departure times accurately to the nearest five minutes.
- Record times children are gone during the day such as for school, appointments, etc.
- Do not record unclaimed children on *Minute Menu*; infants, your own if ineligible, children over 13 (unless you have a waiver), un-enroll children, etc.
- Record all children in your care on your attendance even if they are not claimed.
- Record all your own children under thirteen on your attendance even if not claimed.
- Inform monitors of all children being claimed who are not observed for any reason; sleeping, ate earlier and left, arriving late, etc.
- Be aware of your license capacity and take whatever measures are necessary to stay within your capacity or get a waiver from your childcare licensor.

- Serve meals at the times on your agreement and inform your sponsor immediately if they change.
- Notify your sponsor if a meal, like a picnic, will be served away from your facility.
- Follow meal component and portion size requirements carefully.
- Be sure parents are aware of all meals their children are served.
- Always have paperwork available (including computer programs or up-to-date print outs), even when an assistant is left in charge.
- Keep your sponsor aware of changes that affect your license or tier determination.
- Make sure your sponsor always has a copy of your most current license.
- Ask your sponsor for help any time you have questions.

## **Washington State Corrective Action Procedures**

The following Corrective Action Procedures were developed by a committee of Washington State Family Day Care Home (FDCH) Sponsors and representatives of the Office for the Superintendent of Public Instruction (OSPI) as the result of direction from the USDA. All FDCH sponsors in Washington are required to follow this process.

It is the sponsor's responsibility to provide sufficient training and technical assistance during the pre-approval and 4-week visits to assure successful participation for all providers. Technical assistance must be documented and provided during the early stages of program participation. Extra technical assistance is available on request.

**Special Circumstances:** Corrective Action procedures may take into consideration the special extenuating circumstances: new participants on the program, language barriers, literacy barriers, or other documented special circumstances.

These circumstances may require extra technical assistance. Once a problem is identified, the extra assistance must be provided and documented at least monthly. The technical assistance may continue if the provider is showing improvement that can be documented. Documentation must also indicate when the provider has mastered the technical assistance issues. If no improvement is made, the provider must be placed into the corrective action process.

**Corrective Action Deficiencies and Required Actions:** The Washington State Corrective Action Policy identifies several categories of deficiencies that require specific actions by the sponsor and/or the provider. For each category, a list (with the appropriate regulatory citation listed) is given of some of the "triggers" that cause corrective action because they can be an indication of a deficiency. This is not an exhaustive list.

Sometimes valid circumstances, such as children being absent, can "trigger" follow-up actions. In these cases, the actions will protect the provider by verifying the accuracy of the claim. The following chart shows several "triggers" for each deficiency category that can require corrective action and what actions must be taken by the sponsor and provider for each situation.

## Corrective Action Procedures

Triggers	Required Action
<p><b>1</b></p>	<p><b>Submission of False Claims - 7CFR 226.16 (I)(2)(ii);</b>  <b>Failure to Keep Required Records - 7CFR 226.16 (I)(2)(v); Noncompliance with Meal Pattern - 7CFR 226.16 (I)(2)(iv); Other Circumstance Related to Nonperformance - 7CFR 226.16 (I)(2)(ix)</b></p>
<ul style="list-style-type: none"> <li>● Foods observed at a visit did not match the claim.</li> <li>● Children observed at a visit did not match claim/attendance.</li> <li>● Meals claimed for children not seen during a visit.</li> <li>● Dinner was not served at a visit but was all other days.</li> <li>● A weekend meal was not served for a visit, but it was claimed all other weekends.</li> <li>● The in/out times on the attendance did not match what was observed or usually claimed.</li> <li>● Unable to observe a shift that is always claimed.</li> <li>● Claimed school hours on a Saturday or holiday.</li> <li>● Fewer/no kids observed than usually claimed for the meal.</li> </ul>	<p><b>The sponsor must</b> notify provider of the problem, deduct meals, conduct extra visits to get an explanation and provide technical assistance, conduct parent verifications if appropriate and require parent sign-in forms if appropriate. If the problem continues, the sponsor must revoke shift, dinner and/or weekend claiming privilege if appropriate and declare the provider as seriously deficient.</p> <p><b>The provider must</b> submit an explanation, written if requested, of the cause of the problem and a plan to prevent the same problem in the future by the specified date, and always record menu and attendance records at point of service. If declared seriously deficient, the provider may be required to submit schedules for dinners, evening snacks or weekends if they are claimed sporadically. There may also be additional instructions in the Serious Deficiency Notification.</p>
<p><b>2</b></p>	<p><b>Failure to Maintain Required Records – 7CFR 226.18(e) and 226.16(I)(2)(v)</b></p>
<ul style="list-style-type: none"> <li>● Paperwork behind 1-2 days</li> <li>● Attendance recorded in advance.</li> <li>● Meal Count recorded in advance.</li> </ul>	<p><b>The sponsor must</b> deduct meals, provide technical assistance.</p> <p><b>The provider must</b> always keep all paperwork current through the end of the previous day, never record attendance or meal counts in advance.</p>
<ul style="list-style-type: none"> <li>● Paperwork behind 3 or more days.</li> </ul>	<p><b>The Sponsor must</b> notify provider of the problem, deduct meals, provide technical assistance, and do extra visits. The sponsor must declare provider seriously deficient.</p> <p><b>The Provider must</b> always keep all paperwork current through the end of the previous day, never record attendance or meal counts in advance. If declared seriously deficient, the</p>

	provider must also follow any additional instructions in the Serious Deficiency Notification.
<b>3</b>	<p><b>Claiming Meals Not Served to Participants - 7CFR 226.16 (I)(2)(ii) and 226.18 (e) and 226.18 (b)(4);</b></p> <p><b>Submission of False Claims - 7CFR 226.16 (I)(2)(ii);</b></p> <p><b>Failure to Keep Required Records- 7CFR 226.16 (I)(2)(v); Any Other Circumstance Related to Nonperformance - 7CFR 226.16 (I)(2)(ix)</b></p>
<ul style="list-style-type: none"> <li>• Children claimed when no longer in care.</li> <li>• Non-existent children claimed.</li> </ul>	<p><b>The Sponsor must</b> deduct meals, conduct parent verifications, do extra visits, and, if appropriate, require parent sign-ins submitted with claims. If a discrepancy is confirmed the sponsor must declare the provider seriously deficient.</p> <p><b>The Provider must</b> submit a written explanation and inform the monitors about all children to be claimed, including children who are napping, already ate and left, or will be arriving late. If declared seriously deficient the provider must follow any additional instructions in the Serious Deficiency Notification.</p>
<ul style="list-style-type: none"> <li>• Meals were claimed for children for times or days the parents say they were not in care.</li> </ul>	<p><b>The Sponsor must</b> notify the provider of the problem, do all the actions listed above and a follow-up parent verification after 4-6 months.</p> <p><b>The provider must</b> always record accurate in/out times and never claim children when they are gone-even if temporarily.</p>

<b>4</b>	<p><b>Claiming Meals Served Over Capacity/Failure to Comply with Licensing Standards - 7CFR 226.1 (a);</b></p> <p><b>Failure to Keep Required Records- 7CFR 226.16 (I)(2)(v); Any Other Circumstances Related to Nonperformance- 7CFR 226.16 (I)(2)(ix)</b></p>
<ul style="list-style-type: none"> <li>• Attendance records show the number of children over capacity.</li> </ul>	<p><b>The sponsor must</b> deduct meals, provide technical assistance.</p> <p><b>The provider must</b> take whatever measures necessary to stay within capacity.</p>
<ul style="list-style-type: none"> <li>• Number of children observed at a visit was over capacity.</li> <li>• As assistant was not present when the number present required it.</li> <li>• Too many children under 2 years old were present.</li> <li>• Shifts done incorrectly; an overlap caused the number of children present to be over capacity at times.</li> </ul>	<p><b>The sponsor must</b> deduct meals, provide technical assistance, and report the provider as over capacity to Child Protective Services.</p> <p><b>The provider must</b> be aware of your license capacity and take whatever measures necessary to stay within capacity or get a waiver from their licenser, have no overlap when shifting, no matter how short (unless they have a waiver), always have an assistant present when the capacity requires it, and record all children in your care on your attendance form, whether</p>

	claimed or not. This includes your own children, infants, drop-ins, and children not present at meals, etc.
<ul style="list-style-type: none"> <li>Not all children in care are recorded on the attendance.</li> </ul>	<p><b>The sponsor must</b> notify the provider of the problem, provide technical assistance, do extra visits, and conduct parent verifications. If the problem continues the sponsor must declare the provider seriously deficient.</p> <p><b>The provider must</b> record all children in care on the attendance, whether claimed or not. This includes your own ineligible children, infants, drop-ins, children that are not present at mealtime, etc.</p>
<b>5</b>	<b>Any Other Circumstance Related to Nonperformance - 7CFR 226.16 (I)(2)(ix)</b>
<ul style="list-style-type: none"> <li>Did not notify sponsor of changes in license (revocation, suspension, reduction, moved).</li> </ul>	<p><b>The Sponsor must</b> verify capacity, deduct meals, provide technical assistance, and declare the provider seriously deficient retroactive to the discrepancy.</p> <p><b>The provider must</b> submit a valid license immediately and notify sponsor of changes in capacity, address, etc.</p>
<ul style="list-style-type: none"> <li>Children’s health or safety at risk.</li> </ul>	<p><b>The sponsor must</b> SUSPEND IMMEDIATELY, confer with the licensing agency, and report to Child Protective Services</p> <p><b>The provider can</b> appeal if suspended.</p>

<b>6</b>	<p><b>Claiming Meals Served to Provider’s Children Who Are Not Eligible -7CFR 226.18 (e);</b></p> <p><b>Failure to Keep Required Records -7CFR 226.16(I)(2)(v);</b></p> <p><b>Any Other Circumstance Related to Nonperformance -7CFR 226.16(I)(2)(ix)</b></p>
<ul style="list-style-type: none"> <li>Own children claimed when not income eligible.</li> </ul>	<b>The sponsor must</b> deduct meals and provide technical assistance.
<ul style="list-style-type: none"> <li>Own child over 13 years old still claimed</li> </ul>	<b>The provider must</b> record own children, if ineligible, on attendance only, not on Minute Menu, and take children off all forms on their 13 <sup>th</sup> Birthday.

<b>7</b>	<b>Serving Meals that Do Not Meet the Meal Pattern -7CFR 226.20(I)(2)(iv)</b>
<ul style="list-style-type: none"> <li>Incomplete meal observed at a visit</li> <li>Portions served are obviously not sufficient</li> <li>Family Style Service Foods (or at least minimum portions) are not accepted and are not offered a second time.</li> </ul>	<p><b>The sponsor must</b> notify the provider of the problem, deduct meals, provide technical assistance and do extra visits. If the problem continues, the sponsor must declare the provider seriously deficient.</p> <p><b>The provider must</b> follow meal pattern requirements exactly and request assistance if needed, measure portions until familiar with appropriate amounts, read manual or Creditable Food Guide, offer food to children at least twice if not</p>

	accepted or portion taken is too small, do all paperwork carefully and accurately and request help if needed.
<b>8</b>	<p><b>Failure to Comply with Monitoring Requirements -7CFR 226.18(b)(8);</b></p> <p><b>Failure to Keep Required Records -7CFR 226.18(l)(2)(v);</b></p> <p><b>Submission of False Claims -7CFR 226.18(l)(2)(ii);</b></p> <p><b>Any Other Circumstances Related to Nonperformance -7CFR 226.18(l)(2)(ix)</b></p>
<ul style="list-style-type: none"> <li>• Not home for attempted visit but children were claimed.</li> <li>• Meal missed because it was served earlier or later than on agreement.</li> </ul>	<p><b>The sponsor must</b> notify the provider of the problem, request an explanation, give technical assistance, do extra visits, and, if applicable, deduct meals, conduct parent verifications, and revoke the provider’s privilege to claim shifts, dinners, and/or weekends. If the problem continues the sponsor must declare the provider seriously deficient.</p>
	<p><b>The provider must</b> submit an explanation, written if requested, by specified date, notify the sponsor when meals will be served away from childcare home, and notify the sponsor immediately if mealtimes change. If declared seriously deficient the provider must follow an additional instruction in the Serious Deficiency Notification.</p>
<ul style="list-style-type: none"> <li>• Assistant in charge did not have access to paperwork.</li> <li>• The monitor was not allowed to conduct the visit.</li> </ul>	<p><b>The sponsor must</b> notify the provider of the problem, deduct meals, and conduct an extra visit. If the problem continues the sponsor must declare the provider seriously deficient.</p> <p><b>The provider must</b> always notify the sponsor as soon as possible if they need to cancel an appointment, allow monitor to complete visit even if no children are present unless there are special circumstances- a written explanation must be submitted immediately, and make sure assistants left in charge have access to all records-including computer programs.</p>
<b>9</b>	<p><b>Failure to Comply with Civil Rights Laws -7CFR 266.6(b)(18)(iii)(E)(4); Any Other Circumstances Related to Nonperformance-7CFR 226.16(l)(2)(ix)</b></p>
<ul style="list-style-type: none"> <li>• Refused care for a specific child due to age, special needs, etc.</li> </ul>	<p><b>The sponsor must</b> provide resources and technical assistance.</p> <p><b>The provider</b> cannot discriminate.</p>
<b>10</b>	<p><b>Failure to Comply with Civil Rights Laws -7CFR 226.16(l)(2)(viii) and 7CFR 226.18(b)(2)</b></p>
<ul style="list-style-type: none"> <li>• Did not complete training</li> </ul>	<p><b>The sponsor must</b> provide an in-home training opportunity. If the training is refused the sponsor must declare the provider seriously deficient.</p>

	<b>The provider must</b> complete the in-home training or a group training.
<b>11</b>	<b>Any Other Circumstance Related to Nonperformance -7CFR 226.16 (I)(2)(ix)</b>
<ul style="list-style-type: none"> <li>Did not notify the sponsor of changes that affect Tier level (moved, family size, etc.).</li> </ul>	<p><b>The Sponsor must</b> deduct meals, provide technical assistance, re-evaluate the provider’s tier, file revised claims, and declare the provider seriously deficient.</p> <p><b>The provider must</b> report immediately changes in address, family size, etc., submit written plan to prevent invalid tiering, and repay excess money received based on the invalid tiering.</p>
<ul style="list-style-type: none"> <li>Parent signatures are not valid on enrollments, parent verifications, etc.</li> </ul>	<p><b>The sponsor must</b> deduct all meals for the children involved, conduct parent verifications for all children, and declare the provider seriously deficient.</p> <p><b>The provider must</b> submit a written explanation, repay money received for invalid or unverifiable meals and re-enroll all children with enrollments direct to sponsor from parents.</p>

## Transfer Policy

The goal of the Child and Adult Care Food Program (CACFP) is to serve as many licensed childcare providers as possible. Although each sponsor has some different services and paperwork, the basic requirements and reimbursements are the same for all programs. Most sponsors in Washington State use the Minute Menu System, so most of the paperwork is the same. The United State Department of Agriculture (USDA) discourages allowing providers to transfer between programs, because this defeats the goal of reaching providers who are not being served. Therefore, a transfer must be approved by the current sponsor, the potential sponsor, and the Office of the Superintendent of Public Instruction (OSPI) before it can take place.

Usually, a provider decides to transfer because of an action taken by their current sponsor. In many cases the potential new sponsor would take a similar action. Transfers are discouraged both to and from our program, but a provider may have a valid reason to transfer. Our transfer policy, which is based on the Washington State Transfer Policy, is as follows.

**Providers Transferring from our Program:** If a provider is in good standing on our program our policy is to approve the transfer. In accordance with the Washington State Transfer Policy, if the provider is under any kind of corrective action or special training plan, the transfer cannot be approved. All transfers must be approved by OSPI, which means the transfer can be denied even if it is approved by both sponsors.

**Providers Transferring to our Program:** The procedure to approve a transfer to our program includes the following steps.

- Determine the provider’s reason for transferring. If appropriate, make certain he/she understands our policy regarding the situation, especially if we take the same action.

- If the provider still wants to transfer and the reason is determined to be valid, the Washington State Transfer Procedure is explained in detail. The provider must request, in writing, permission from their current program and from us to transfer. The transfer also has to be approved by OSPI.
- When we receive a written transfer request from the provider and a “Letter of Conveyance” from the current sponsor (to determine the provider’s standing), if the provider is in good standing, Frontier Behavior Health approves the transfer contingent on the approval of OSPI. If the provider is not in good standing, the transfer is denied.
- The actual process must be completed by the 20<sup>th</sup> of the month to guarantee the provider’s uninterrupted participation in the CACFP. Both sponsors must be made aware of any delays.
- The provider cannot claim on our program until the beginning of the month after the paperwork is completed and approved by both sponsors and OSPI.

### **Washington State Transfer Policy**

The following transfer policy was developed by the Office of the Superintendent of Public Instruction and must be followed by all Child and Adult Care Food Program sponsors in Washington State.

When contacting providers or working from a list of licensed homes, sponsors must first inquire whether the provider is already enrolled in the program. If this is the case, the sponsor may not pursue the contact. A sponsor must not coerce or cajole a provider into transferring to its program.

OSPI encourages sponsors to conduct outreach and enroll nonparticipating homes on the program, so that more children will be served. However, OSPI will not allow sponsors “stealing” homes from each other for the following reasons:

- No program or nutritional interests are served when a sponsor enrolls a transferring home.
- The home is already participating, and the children enrolled in that home are already receiving the nutritional benefits off the program.
- The provider must meet the same overall requirements and will receive identical meal reimbursement under any sponsor.
- It is an unnecessary and wasteful use of federal dollars for sponsors to expend their time and resources enrolling homes that are already participating.
- This policy extends to providers who are terminated for convenience and wish to sign an agreement with a new sponsor.
- As sponsors and administrators, we must always keep in mind the purpose of the Child and Adult Care Food Program is to serve children.
- All sponsors must notify their providers of this policy at the time of the pre-approval visit and at the beginning of each fiscal year to ensure providers understand their responsibility.

## **Washington State Transfer Procedure**

As part of implementing and maintaining program integrity, providers will be allowed to transfer only one time per year. Routine transfers of providers from one sponsoring organization to another will not be allowed. OSPI recognizes there may be extenuating circumstances, in which case, OSPI may approve an exception to the policy.

- The provider must notify both the current sponsor and the new sponsor in writing that he/she wants to transfer and is terminating his/her agreement with the current sponsor. The notification must include a reason the transfer should take place (i.e., provider moved or sponsor no longer services that area).
- The provider must have written approval from both sponsors to transfer.
- The previous sponsor is required to issue a “letter of conveyance” to the new sponsor upon written request of the daycare home provider to transfer to the new sponsor.
- Providers involved in a formal termination process will not be allowed to transfer to another sponsoring organization.
- A sponsor may accept a provider with documented problems. However, careful monitoring will be required.
- Transfer must be completed no later than the 20<sup>th</sup> of any given month. If completed after the 20<sup>th</sup> of the month, the request to transfer should not be processed until the following month.
- The date of the termination is the last day of the month.
- The new sponsor must:
  - Submit the written request from the provider to OSPI.
  - Included documentation acknowledging the transfer from the current sponsor and/or the “letter of conveyance” from the current sponsor.
  - Submit this information to OSPI by the 25<sup>th</sup> day of the month and list the termination date from the current sponsor.
  - Inform providers the change or sponsorship is subject to approval by the state agency and is not guaranteed.

### **References:**

Federal regulation 7CFR 226

The Agricultural Risk Protection Act of 2000, Public Law 104-226

Issued: May 2000

Revised: June 2001

Revised: April 2006

## **Termination Policy**

Participation on the Frontier Behavioral Health CACFP is almost always terminated by the childcare provider at their convenience. However, occasionally a provider is terminated by the sponsor for either cause or convenience. Termination can also be the result of information from the Department of Child Care and Early Learning.

**Termination for the Convenience of the Provider:** Most participants terminate their participation in the CACFP when they quit doing childcare or simply choose to no longer participate on the program. Notification can be a phone call, or a written note included with the last claim. Prior notification is helpful.

**Termination for the Convenience of the Sponsor** Sometimes a provider is terminated when it becomes impossible to meet all USDA requirements. These problems include scheduling and conducting visits and receiving claims on time. They rarely become serious enough for termination.

**Difficulty Scheduling Visits:** We are required to make a minimum of three visits each year with two unannounced and two at meals. These visits can be no longer than six months apart. We must do extra visits if we miss the meal at more than one visit. If we are unable to see a provider two months in a row, their claiming privilege must be suspended until a successful visit is made. If we find we are unable to meet these requirements, we may have to terminate the provider for convenience. This is a last resort, and the provider is notified of the possibility before the action is taken.

**Paperwork not Kept Current on Forms:** Paperwork must be kept up daily. Point of service is recommended. If paperwork is not current *on our forms*, we can accept a provider's paperwork. If the problem is not resolved in a reasonable number of visits, the provider is required to keep all records current on our forms and can be terminated for convenience if the problem continues.

**Claims Consistently Submitted late:** We are aware that many situations can cause claims to arrive in our office late. We willingly accept and process late claims dependent on the situation. However, we reserve the right to terminate a provider for convenience if they make no effort to get their claim in on time. This happens only after a warning.

**Termination For Cause by the Sponsor:** Termination for cause is not contemplated until after a period of corrective action, so the sponsor has been in contact with the provider on a regular basis. The provider has already had several chances to correct the problem. Due to the serious and long-term consequences of termination for cause, OPSI has developed a detailed procedure based on USDA guidelines that must be followed to terminate a provider's participation in the Child and Adult Care Food Program. This procedure protects the rights of providers by requiring sponsors to give providers technical assistance, a chance to correct the problem, and a procedure to appeal the sponsor's decision.

## **Washington State Serious Deficiency Policy**

**Determination:** Termination for cause is the last result of the Corrective Action Procedure. If a problem continues after all allowable technical assistance and preventative corrective actions have been conducted, a provider is determined to be seriously deficient, and the Serious Deficiency Process is started.

**Serious Deficiency Notification:** This notice, sent by certified mail, informs a provider he/she has been determined to be seriously deficient in their operation of the CACFP. The letter contains the following information.

**Serious Deficiency:** Each deficiency is described in detail including types and dates of extra technical assistance and corrective action that have already been provided.

**Corrective Action:** The specific actions, the documentation required, and the date the actions must be fully and permanently implemented are given.

**Consequences:** The provider is informed of the consequences of failing to satisfactorily and permanently complete the required actions by the specified date.

- The sponsor will propose to terminate the provider from the CACFP and to disqualify him/her from future CACFP participation. If disqualified, the provider is placed on the National Disqualified List. While on the list the provider cannot participate in the CACFP as a childcare home provider or serve as a principle in any CACFP institution or facility. The provider will remain on the list until it is determined the serious deficiencies are corrected, until seven years after the disqualification, or longer if any debt relating to the deficiencies has not been repaid.
- If the provider voluntarily terminates his/her agreement to participate in the CACFP before corrective action is complete, the sponsor will disqualify him/her from future CACFP participation and place the provider on the National Disqualified List.
- If in a subsequent review any of the deficiencies re-occur, the sponsor will immediately propose to terminate the provider's participation in the CACFP and disqualify him/her from future CACFP participation.

**Rights:** The provider cannot appeal the serious deficiency determination but can appeal if the sponsor proposes to terminate his/her agreement or to disqualify him/her. The provider will be notified of his/her appeal rights and the procedures if that occurs. The provider can continue to participate in the CACFP during this process. The sponsor will pay all valid claims.

**Successful Completion of Corrective Action:** If the required corrective action is successfully completed by the deadline, and the sponsor determines the provider has fully and permanently corrected the deficiencies, the proposal to terminate and disqualify is rescinded. A certified letter is sent to notify the provider of this decision and that if the deficiency reoccurs at the subsequent visit, the sponsor will immediately propose to terminate her/his participation on the CACFP and disqualify him/her from future participation.

**Unsuccessful Corrective Action:** If the corrective action is not completed by the deadline or it is determined to be inadequate, the provider is notified that the sponsor proposes to terminate and disqualify him/her.

**Notice of Proposed Disqualification:** This letter, sent by certified mail, informs the provider of the following:

- Notifications that the required corrective action in the Serious Deficiency Notification were not completed satisfactorily with a discussion of each deficiency and why the corrective action was inadequate.
- The date the sponsor is proposing to terminate the provider from the CACFP for cause and to disqualify the provider from the future CACFP participation with the consequences described above.
- The procedures to appeal the sponsor's decision. The provider can continue to participate in the CACFP during the appeal process. The sponsor will continue to pay all valid claims.
- If the provider voluntarily terminates his/her agreement to participate in the CACFP before the corrective action is complete, the sponsor will disqualify him/her from future CACFP participation and place him/her on the National Disqualified List.

**Provider Wins the Appeal:** If the provider filed a timely appeal and the hearing official overturned the sponsor's proposed actions, the provider is notified, by certified mail, that the serious deficiency determination, the proposed termination, and the proposed disqualification have all been rescinded.

**Sponsor Wins the Appeal:** If an appeal was filed and the sponsor's proposed actions were upheld, the provider is notified, by certified mail, of the dates his/her participation on the CACFP is terminated and he/she is disqualified from future CACFP participation. The provider's name is placed on the National Disqualified List. The result is the same if the provider voluntarily terminates participation on the CACFP after receiving the termination notification.

**Failure to Appeal:** If no appeal is made by the deadline, the provider is notified, by certified mail, of the dates his/her participation on the CACFP is terminated and he/she is disqualified from the future CACFP participation. The provider's name is placed on the National Disqualified List. The result is the same if the provider voluntarily terminates participation on the CACFP after receiving the termination notification.

## **Appeal Procedures**

All family day care home providers that have been given a Notice of Intent to Terminate for cause have the right to appeal (request an administrative review). An appeal is a process by which an impartial hearing official reviews information provided by the sponsoring organization and the family day care home provider to determine if procedures were followed and within the federal and state laws, regulations, and policies and procedures governing the Child and Adult Care Program. The procedure for an appeal is as follows:

## **Purpose**

The appeal procedure allows family daycare home providers participating in the Child and Adult Care Food Program (CACFP) an avenue of appeal. A provider may appeal (request an administrative review) when the Family Day Care Home (FDCH) or Sponsoring Organization (SO):

- Proposes termination of the provider's program participation.
- Suspends the provider's agreement for program participation.

## **Procedure**

Notification, request, and procedure for hearing.

- Whenever the SO takes action that will affect the participation of a provider in the CACFP, the SO will inform the provider in writing of the action and the grounds upon which its decision is based. The SO will advise the provider of their right to appeal.
- Upon receipt of the letter of proposed termination, the provider must submit to the SO a written request for appeal postmarked no later than seven (7) business days from the date the notice of proposed termination was received by the provider. The original and one additional copy of the appeal request must be sent to the SO via certified mail. The address is as follows:

Frontier Behavioral Health  
Attention: Carole Beck  
107 S. Division St.  
Spokane, WA 99202

The SO will forward the original copy of the appeal request to the hearing official via certified mail. The hearing official will acknowledge receipt of the request for appeal to both the provider and the SO within ten (10) business days from date of receipt. This notice must be in writing.

- The provider may refute the charges (show they are false) by providing additional written documentation to the hearing official. For the provider's request for an appeal to be considered, written documentation must be filed with the hearing official within ten (10) business days of the request for appeal. The SO will forward the information to the hearing official not later than five (5) business days after the additional written documentation/record unless there are extenuating circumstances, as defined by the hearing official. If the hearing official determines that an in-person hearing is warranted, he will notify both parties. The hearing official will set the time and place for the review of the provider records and SO records if there is an in-person hearing.
- In case of an in-person hearing, failure of the provider to appear at a scheduled hearing will forfeit the provider's right to appeal.
- The provider may represent themselves, may be represented by another person, or may retain legal counsel.
- Any Information on which sponsor's action was based will be available to the provider for review. The hearing official will make copies of this information available to the provider, if necessary.
- The hearing official will decide based solely on information provided by the SO, the provider, and on the program regulations, federal and state laws, and procedures governing the CACFP.
- The Provider, the SO's executive director, and the Office of Superintendent of Public Instruction, must be notified in writing of the hearing official's final decision within thirty (30) days from the date of the receipt of the request for appeal.

- The provider may continue to operate during an appeal of proposed termination unless there is evidence of eminent threat or danger to the health or welfare of the children.
- Providers continuing to operate while appealing proposed termination will be reimbursed for any eligible meals served during the period of appeal.
- During the period of the review by the hearing official, the SO will not take action to collect or offset any overpayment noted in the termination letter.
- The decision by the hearing official is the final administrative determination. There is no further opportunity to appeal to the Office of Superintendent of Public Instruction.
- If the provider loses the appeal, termination date of the agreement is the date of the hearing official's decision.
  - The provider will be placed on the National Disqualified List of Providers for a period of seven (7) years unless the provider owes money. In this case the provider will remain on the list indefinitely.

## **Appeal Procedure – Notice of Suspension**

Whenever a Family Daycare Home Sponsoring Organization suspends the participation of a provider for eminent threat to the safety or health of children, the provider must be notified both verbally and in writing that its participation has been suspended, that the day care home is seriously deficient, and that the sponsoring organization proposes to terminate the provider's agreement for cause. The notification in writing must be sent by certified mail.

- The notice must specify the serious deficiency(ies) found and the provider's opportunity for an appeal for the proposed termination.
- The written notice must inform the provider that participation, including all payments, will remain suspended until the appeal is conducted.
- The written notice must inform the provider that if the hearing official overturns the suspension, the provider may claim reimbursement for eligible meals served during the suspension.
- The written notice must inform the provider that termination of the agreement will result in being listed on the National List of Disqualified Providers. The provider will remain on this list for a period of seven (7) years unless the provider owes money, in which case the provider will remain on the list indefinitely.
- The written notice must inform the provider that if the provider seeks to voluntarily terminate its agreement after receiving the notice of proposed termination, the provider will still be terminated for cause and placed on the National List of Disqualified Providers.

## **Record Retention Policy**

The Child and Adult Care Food Program (CACFP) regulations at 226.10(d) and 226.18(d), (e), and (g) required family daycare home (FDCH) providers to maintain program records.

Section 226.10(d) requires that records shall be retained for three years after the date of submission of the final claim for the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the end of the three-year period if they may be required for the resolution of the issues raised by the audit.

USDA realizes that sponsors must require providers to submit records of menus, meal counts, and enrollment. However, it is important that copies of these records also be maintained at the provider's facility in accordance with 226.18(e), which states that each daycare home must maintain on file documentation of each child's enrollment and must maintain daily records of the number of children in attendance and the number of meals, by type, served to enrolled children.

While sponsors may keep duplicate records, the FDCH provider ensures that records are available for review when a monitor or auditor arrives at the home. Records that are kept at the provider's home offer the State Agency an audit trail and the ability to confirm the accuracy of the records at both locations. In addition, maintaining records as the FDCH instills an internal control whereby the provider is assured that reimbursements are accurate and that no errors have occurred in the payment process.

We realize that the proper implementation of this existing regulation may be considered an unnecessary administrative burden for the providers. To satisfy that concern, providers must only maintain and have on hand for immediate review all records that support their program activities for the current month, as well as the previous twelve months of operation. Records should include documentation of attendance, enrollment, meal counts and menus. Providers may store the remaining two years of records offsite; however, they must still be in control of the provider and accessible within a reasonable amount of time. If no offsite storage is used, providers must retain three years of records, on site, at the FDCH. Records can be kept in hard copy or electronic format, provided if they are readily available to reviewers. Sponsors and providers must be aware that failure to maintain such records shall be grounds for denial of reimbursement.

Providers should be given the opportunity to correctly implement this requirement without any fiscal or serious deficiency penalties against providers for non-compliance unless it is in violation of the previously established State or sponsor requirement or a provider's agreement with the sponsor. However, corrective action is required for violations that occur after the final October 1, 2010 implementation date.

If you have any questions regarding these procedures, please contact your sponsoring organization.