

Family Day Care Home Renewal Training Acceptable Serious Deficiency Procedure

FY 2013



Steps in the Serious Deficiency Process

Serious deficiency determination

Serious deficiency Notice

Opportunity for Corrective Action

Propose termination/disqualification

Appeal Process



Step 1

Serious Deficiency Determination

How does the sponsor determine that a provider should be declared seriously deficient?

- . What type of finding(s) were observed?
- . What is the severity of the finding?
- . Has this finding occurred before and is it frequent finding?



List of Serious Deficiencies

7 CFR 226.16(I)(2): List of Serious Deficiencies for day care homes:

- (i) Submission of false information on the application;
- (ii) Submission of false claims for reimbursement;
- (iii) Simultaneous participation under more than one sponsoring organization;
- (iv) **Non-compliance with the Program meal pattern;**
- (v) **Failure to keep required records;**
- (vi) Conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health or safety;
- (vii) A determination that the day care home has been convicted of any activity that occurred during the past 7 years that indicated a lack of business integrity (i.e. fraud, antitrust violations, embezzlement, theft, forgery, bribery, etc.);
- (viii) **Failure to participate in training;** or
- (ix) **Any other circumstance related to non-performance under the sponsoring organization-day care home agreement, as specified by the sponsoring organization or the State agency.**



Step 2

Serious Deficiency Notice

When the sponsor has determined that the provider is seriously deficient, the sponsor must:

Notify the provider that she is being declared seriously deficient.

List the deficiencies and include the regulatory cite.

Describe the corrective action the provider must take to correct the problem.

Give the provider a deadline for having the corrective action completed.

Forward a copy of the serious deficiency letter to ADE.



Step 3

Corrective Action

Upon receipt of the corrective action from the provider, the sponsor must determine if the corrective action that has been submitted is acceptable.



Step 4

Propose Termination

Notify the provider of proposed termination.

1. Indicate that the sponsor intends to terminate their agreement with the provider.
2. Appeal
3. Claims



Step 5

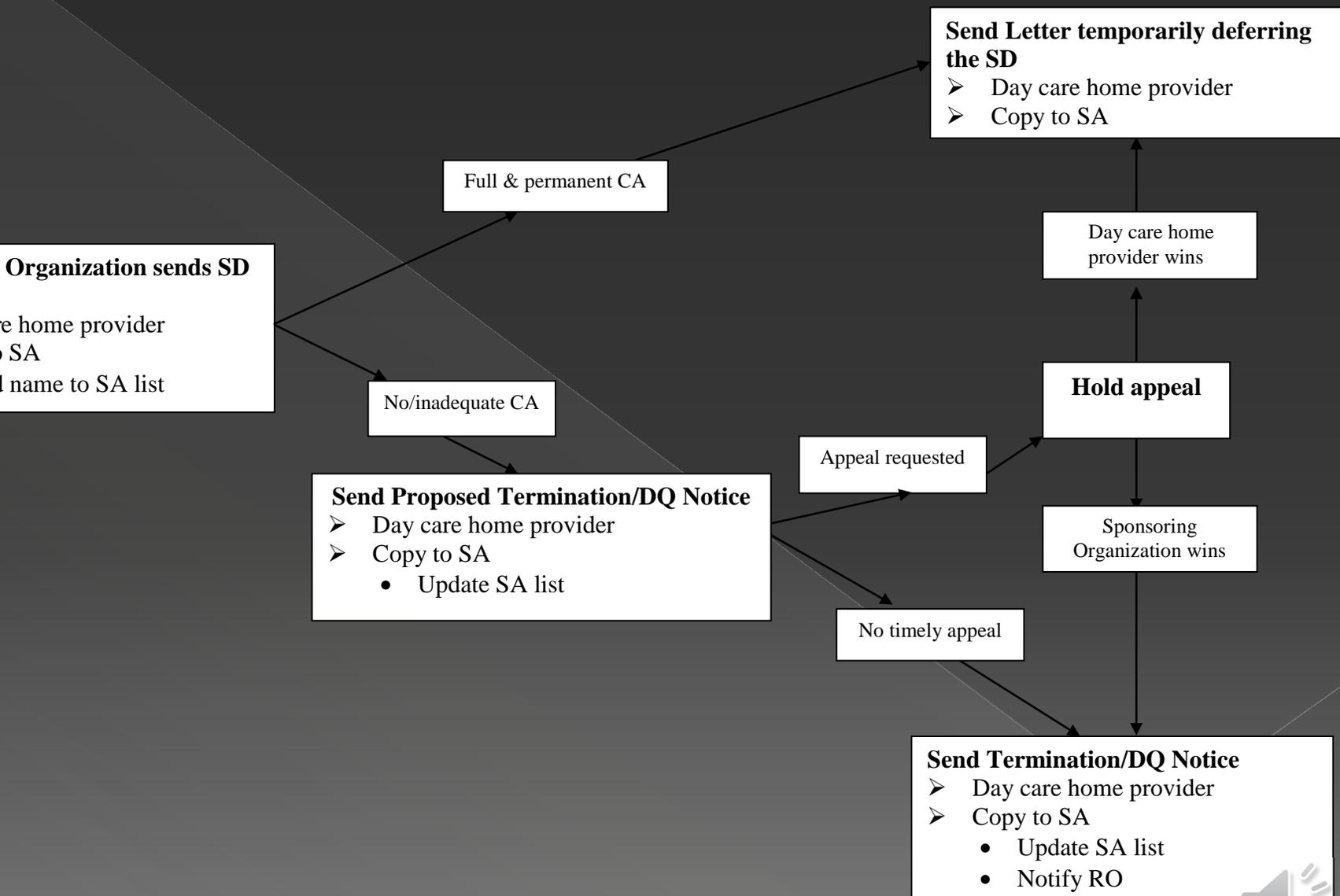
Appeal Process

The following is the process should the provider request an appeal hearing:

1. Materials and documents
2. Ruling (in favor of the provider)
 - a. Send a notice to the provider withdrawing the serious deficiency, proposed termination and disqualification.
 - b. Forward a copy of the letter to ADE.
3. Ruling (in favor the sponsor)
 - a. The sponsor must formally terminate the home's agreement for cause.
 - b. Send a copy of the termination letter to ADE, along with the provider's name and other information needed for placing the provider on the National disqualification List.



Flow Chart: Serious Deficiency Process Day Care Home Providers



Serious Deficiency Q and A's



If the provider's submission of timely and complete corrective action leads to the Sponsor's withdrawal of the notice of serious deficiency, how can failure to maintain the corrective action result in a notice of proposed termination?

When the provider has submitted her corrective action and it has been accepted by the sponsor, the expectation is that the corrective action is permanently maintained. Should the same serious deficiency be found again and there are no extenuating circumstances, the sponsor may proceed to Step 4 in the serious deficiency process and propose termination for Cause. Because the provider has already had the opportunity to correct the serious deficiency and did not maintain the corrective action, the sponsor does not have to go through the entire serious deficiency process again.



When does failure to maintain corrective action NOT lead to proposed termination?

- What was the nature of the original problem
- The amount of time that has elapsed between issue.
- Change in personnel.
- The availability of supporting documentation for the original and repeated serious deficiency.



During a review, the Sponsor issues a finding that is not a serious deficiency, but that requires the home to take corrective action. Can the provider self-terminate at this point, without any action by the Sponsor?

Yes

The home can terminate its agreement with the sponsor “for convenience” at any time, provided that the sponsor has not discovered a serious deficiency in the provider’s Program operations, or has not declared the provider seriously deficient.



If a day care home loses its license, must the sponsor declare the home seriously deficient?

No

If a home loses its license or certificate, it is ineligible to participate on the CACFP program. But as long as the home notifies the Sponsor that it has lost its license or certificate and is not claiming meals, there is no need for the Sponsor to declare the home seriously deficient.

However, a home that loses its license and continues to submit claims for Program reimbursement is seriously deficient.



Serious Deficiency Policy

All Sponsors will be required to update their written serious deficiency policy. It must include, but should not be limited to:

Timelines identified for corrective action.

What is acceptable corrective action.

Tracking system

State notification



Any Questions on Serious Deficiency Process?

Should you have any questions pertaining to the serious deficiency process:

Contact your CACFP specialist;

Contact the CACFP Specialist of the Day
at 602-542-8700

