

## DEPARTMENT OF SOCIAL SERVICES

## CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

JULY 27, 2006

MEMORANDUM**What's Inside:**

- Changes to the Alleged Perpetrator Grievance Process
- Revised CS-21 and CS-24
- New Central Registry Fact Sheet (CD-4)

TO: REGIONAL EXECUTIVE STAFF, CIRCUIT MANAGERS, AND CHILDREN'S DIVISION STAFF

FROM: PAULA NEESE, INTERIM DIRECTOR

SUBJECT: ALLEGED PERPETRATOR GRIEVANCE AND CHILD ABUSE/NEGLECT REVIEW BOARD (CANRB) PROCESS

## DISCUSSION:

The Child Abuse and Neglect (CA/N) Hotline Central Registry is a subset of our CA/N Information System and includes names of those who have a substantiated CA/N report by our division or upheld by the court. The Children's Division is revising its appeal process to enhance the due process for alleged perpetrators with substantiated CA/N reports. This policy is effective August 7, 2006, for all pending and new hotlines from this day forward.

**ALLEGED PERPETRATOR NOTIFICATION**

There is no change to the definition of child abuse or neglect. The standard of proof for substantiations of child abuse or neglect investigations remains to be "Preponderance of Evidence." However, such terminology has been difficult for alleged perpetrators to understand and comprehend the potential impact on their future employment. To assist alleged perpetrators in understanding this process and its impact, a **Central Registry Fact Sheet (CD-4)** has been established. This fact sheet shall be sent to all *substantiated* alleged perpetrator(s) with the CS-21.

Pursuant to current policy, staff will send CS-21 to the alleged perpetrator(s) within fifteen (15) calendar days of the status determination. For any report that is substantiated by Preponderance of Evidence (POE), staff shall mail the CS-21 and new *Central Registry Fact Sheet (CD-4)*, to the alleged perpetrator by **certified mail**. By using certified mail to send the notification forms to substantiated perpetrators, will require the recipient's signature, verifying he/she received the notification of the substantiated finding as well as their appeal rights. There is a fiscal impact of this new policy, as certified letters with return receipts cost \$4.25 per letter. Information on the budget will be forthcoming to Regional Directors and Circuit Managers.

## **INTRODUCTION OF “PRELIMINARY FINDING” AND UPDATING FACES SCREENS**

Changes to the FACES Conclusion and Participant Characteristics screens along with the introduction of the Appeal Screen have been included on the Investigation and Assessment Function home page. Upon conclusion of an investigation found to be substantiated by POE, the worker will update the FACES Conclusion Screen using the POE conclusion code of “B”. However, new levels will be identified which include:

1. POE Preliminary finding - Upon conclusion of the investigation found to be substantiated by POE, the worker would enter a “B” = POE on the *FACES Conclusion Screen*. Please note, the system will display a new field “Deadline for Alleged Perpetrator(s) to Request Review” signifying a due date the perpetrator(s) must request such review. This is a display field only.
2. POE Preliminary finding pending appeal - Upon receipt of a request for an administrative review the staff must update the Administrative Review Request Information fields on the *FACES Appeals Screen*.
3. POE Final Determination – upon exhaustion of all requested administrative and judicial review processes (excluding criminal prosecutions) the system will be updated to “Final Determination”.

FACES Tutorial of the Appeal Screen will be forthcoming.

## **APPEAL PROCESS**

Alleged perpetrators with a substantiated POE finding have three levels of review and appeal available to them:

1. Local CA/N Administrative Review – the investigation is reviewed at the local administrative level per current policy.
2. Review by a Child Abuse and Neglect Review Board – Missouri has three boards consisting of professionals outside the division to hear and review cases where the alleged perpetrator disagrees with the finding of preponderance of evidence.
3. Judicial Review – the alleged perpetrator has the right to take the matter to court for a judge’s decision on the accuracy of the substantiated POE finding.

## **REQUEST FOR ADMINISTRATIVE REVIEW**

Per current law, when the alleged perpetrator disagrees with the Division's substantiated by "Preponderance of Evidence" conclusion, the alleged perpetrator has sixty (60) days from receipt of the CS-21 to request an administrative review. During this 60 day period, the Central Registry will reflect “Preliminary Finding.” If no request is received within 60 day period, the system will be automatically updated to “Final Determination”.

If the alleged perpetrator requests an administrative review, the *FACES Appeals screen* must be updated by staff and the system will reflect “Preliminary Finding - Pending Appeal.” This finding will remain in the Central Registry until a Final Determination is reached. The Circuit Manager or OHI Unit Supervisor shall review the evidence in the case to assure that the conclusion reached during the investigation was the correct conclusion. Per current policy, if the decision is to reverse the Division's determination, staff shall notify the alleged perpetrator within ten working days. A new CS-21 shall be

sent to all persons who received the initial CS-21 with an explanation that the decision has been changed. *FACES Conclusion and Participant Characteristics Screens* should be updated by the worker accordingly.

If the decision is to uphold the finding, worker shall send request for review within 10 days to the CANRB Liaison, with a copy of the investigation record and all relevant materials. The *FACES Appeals Screen* should be updated by the worker in the *Review Determination* field.

If the CANRB upholds the Division's decision, the perpetrator may request a judicial review. Such request must be made by the alleged perpetrator within sixty (60) days from the receipt of the CANRB Administrative Review determination letter.

Per current law and policy, if the agency decision regarding a specific CA/N incident is sustained (substantiated) in writing by the circuit court, staff shall update the *FACES Conclusion, Participant Characteristics, and Appeals Screens* accordingly. If the agency decision is reversed by the circuit court, update the case record upon receipt of the court order and submit to the Regional Director through normal supervisory channels. The Regional Director/designee shall review the case and determine whether or not the agency should contest the finding of the court. If it is determined that the Division should contest the decision, refer the case to the Children's Division Director's Office, who will review and, if appropriate, refer to Legal Services. If the decision to reverse is sustained, staff shall update the *FACES Conclusion, Participant Characteristics, and Appeals Screens* accordingly.

Please note: the review process does not include any criminal prosecutions. Per current law and policy, if the alleged perpetrator is found guilty of child abuse/neglect (convicted of crime), he/she is not eligible for an administrative review.

### **ADDITIONAL CHANGES TO THE CANRB PROCESS FORTHCOMING**

All CANRB hearings will be "on-the-record" with Hearing Officers transcript and record on appeal must be available for judicial review. Upcoming training on these changes will include:

- Gathering and documenting evidence so that the rules of evidence are complied with, including: working with hearsay evidence chain of custody issues
- Investigative techniques to preserve evidence
- How to present evidence using rules of evidence at administrative hearings
- Training on the standard of proof to be used at administrative hearings.

### **NECESSARY ACTION:**

1. Review this memorandum with all Children's Division staff.
2. Review revised Child Welfare Manual Chapters and Forms as indicated below.
3. All questions should be cleared through normal supervisory channels and directed to:

<b>PDS CONTACT:</b> Meliny Staysa 573-522-8620 <a href="mailto:Meliny.J.Staysa@dss.mo.gov">Meliny.J.Staysa@dss.mo.gov</a>	<b>PROGRAM MANAGER:</b> Kathryn Sapp 573-522-5062 <a href="mailto:Kathryn.Sapp@dss.mo.gov">Kathryn.Sapp@dss.mo.gov</a>
<b>CHILD WELFARE MANUAL REVISIONS:</b> <a href="#">Section 2, Chapter 4</a> : Investigation Response	
<b>FORMS AND INSTRUCTIONS:</b> CS-21 CS-24 CD-4: Central Registry Fact Sheet	
<b>REFERENCE DOCUMENTS and RESOURCES:</b> N/A	
<b>RELATED STATUTE:</b> <a href="#">210.152</a> and <a href="#">210.153</a> , RSMo	
<b>ADMINISTRATIVE RULE:</b> 13 CSR 40-31.021* Changes to CANRB Administrative Rules will be forthcoming	
<b>COUNCIL ON ACCREDITATION (COA) STANDARDS:</b> N/A	
<b>PROGRAM IMPROVEMENT PLAN (PIP):</b> N/A	
<b>SACWIS REQUIREMENTS:</b> Modifications to Conclusion and Participant Characteristics Screen Tutorial forthcoming New Appeals Screen Tutorial forthcoming	