

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

January 8, 2010

MEMORANDUM

What's Inside:

Child Care
Provider
Administrative
Hearing Process

TO: ALL REGIONAL AND COUNTY CD AND FSD STAFF

FROM: PAULA NEESE, DIRECTOR
CHILDREN'S DIVISION
ALYSON CAMPBELL, DIRECTOR
FAMILY SUPPORT DIVISION

SUBJECT: CHILD CARE PROVIDER ADMINISTRATIVE HEARING
PROCESS

DISCUSSION:

The purpose of this memo is to clarify the administrative hearing process for registered family home providers.

When denying or closing a child care provider registration due to a background screening, staff shall reference Chapter 210.025 RSMo. An individual rejected as a result of a background screening may appeal the decision by requesting an administrative hearing. The potential provider is the only individual that may request the hearing even if a household member is the one that has been determined to have a disqualifying criminal history.

The provider's background eligibility is determined by designated Child Care Provider Relations staff. Once a decision is made it is entered in FAMIS which automatically generates a FA-587, Child Care Information Notice, notifying the applicant of the eligibility decision. This notice will also explain the provider's right to an administrative hearing if the rejection is due to the background screening.

The provider may request a hearing by contacting the appropriate CCPRU staff person. Upon receipt of a request for a hearing, the worker will complete an IM-87, Application for State Hearing. The application and documentation supporting the agency's actions must be mailed to the Hearing Unit within 48 hours of the request. Copies of the supporting documentation must also be given to the provider for review prior to the hearing. Supporting documentation shall include the FA-350, Child Care Provider Registration Application and Agreement, and the FA-587. The worker must obtain a copy of the actual background screening from Early Childhood and Prevention Services. This documentation shall be requested immediately upon receipt of the hearing request in order to provide sufficient time for review by all parties involved.

Background Screenings That Include A Child Abuse and Neglect Probable Cause, Substantiated or Preponderance of the Evidence Finding

In some cases when the background screening includes a Child Abuse and Neglect (CA/N) probable cause, substantiated, or preponderance of the evidence finding, a review of the situation for extenuating and mitigating (E/M) circumstances may be requested by the provider prior to scheduling an administrative hearing. CA/N incidents that are not eligible for a review include:

- Any sexual abuse, regardless of the severity;
- Any emotional maltreatment, regardless of the severity;
- Physical abuse or neglect of the following severity:
 - Moderate;
 - Serious;
 - Severe;
 - Permanent damage, or
 - Fatal
- Educational neglect of any severity above moderate.

If the decision on the E/M review supports the denial or if the CA/N incident is not subject to review, the applicant may then request an administrative hearing. For additional information review IM-30 02/09/00.

In cases where a hearing is requested for a background screening that contains a CA/N probable cause, substantiated, or preponderance of the evidence finding, a copy of the Child Abuse and Neglect Report must be presented as an exhibit. This report shall be requested from the appropriate Children's Division (CD) county office by the CCPRU worker. CD staff shall provide the report in a timely manner. Upon receipt of the report by CCPRU, all identifying information of children involved in the investigation and the person making the report must be redacted (blackened out) to preserve their confidentiality. It is the Children's Division supervisor's responsibility to review the documentation to ensure that all identifying information has been removed. On occasion, it may be necessary for CD staff to participate in a hearing as a witness for the agency to testify on information contained in a record.

CCPRU Staff Responsibility

Staff conducting the hearing is to ensure a location is available to conduct the hearing that protects the confidentiality of the background screening and is equipped with a speakerphone if more than one person will be participating. Staff must also notify the appropriate Hearing Unit ten minutes prior to the scheduled hearing in order to provide a telephone number. During the hearing, staff shall qualify themselves as an agency witness and present the agency's evidence. Appropriate qualifying language is attached for staff's reference as "Hearing Summary Format – Qualifying Statement for Agency Witness".

Upon notice by the Division of Legal Services, CCPRU staff is to immediately take action to implement the final decision to affirm or deny the agency's action.

Local Family Support Division Responsibility

The Family Support Division (FSD) in the county in which the provider resides shall provide a private room equipped with a speakerphone to be utilized by the provider, counsel, and witnesses. They shall notify the appropriate Hearings Unit when the provider arrives and provide a telephone number for the hearing. FSD staff need not be present at the hearing. However, a staff member must be available to assist the individual with the telephone system and faxing exhibits.

Division of Legal Services Responsibility

The Division of Legal Services (DLS) is responsible for scheduling the hearing. They will notify the provider, appropriate Child Care Provider Relations staff and the appropriate FSD county office of the date and time of the hearing. DLS staff will coordinate the connecting of the conference call between all parties involved. The hearings officer will facilitate the meeting and render a decision upon reviewing all testimony and exhibits.

NECESSARY ACTION:

1. Review this memorandum with all Children's Division and Family Support Division staff.
2. Review Memorandum IM-30-02/09/00 - Child Abuse/Neglect Review Process - with all Children's Division and Family Support Division staff.
3. All questions should be cleared through normal supervisory channels and directed to:

PDS CONTACT:

Joyce Koerner
573-526-9857
Joyce.A.Koerner@dss.mo.gov

PROGRAM MANAGER:

Alicia Jenkins
573-751-6793
Alicia.Jenkins@dss.mo.gov

CHILD CARE MANUAL REVISIONS:

FORMS AND INSTRUCTIONS:

[Application For State Hearing \(IM-87\)](#)

REFERENCE DOCUMENTS and RESOURCES:

[IM-30 02/09/00 Child Abuse/Neglect Review Process](#)
[Hearing Summary Format – Qualifying Statement For Agency Witness](#)

RELATED STATUTE:

[RSMo 210.025](#)

ADMINISTRATIVE RULE: NA

COUNCIL ON ACCREDITATION (COA) STANDARDS: NA

CHILD AND FAMILY SERVICES REVIEW (CFSR): NA

PROTECTIVE FACTORS:

Parental Resilience: N/A

Social Connections: N/A

Knowledge of Parenting and Child Development: N/A

Concrete Support in Times of Need: N/A

Social and Emotional Competence of Children: N/A

FACES REQUIREMENTS: NA