

## DEPARTMENT OF SOCIAL SERVICES

## CHILDREN'S DIVISION

P.O. BOX 88

JEFFERSON CITY, MISSOURI

June 16, 2010

<b>What's Inside:</b> Child Abuse/Neglect Administrative Review and Appeal Process
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**MEMORANDUM**

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

FROM: PAULA NEESE, DIRECTOR

SUBJECT: CHILD ABUSE/NEGLECT ADMINISTRATIVE REVIEW AND APPEAL PROCESS

## DISCUSSION:

The purpose of this memorandum is to inform staff of revisions made to the Child Welfare Manual, and to introduce new forms and resource tools to use in the completion of the Child Abuse/Neglect (CA/N) Administrative Review and Appeal Process. The following are new forms or resource tools which have been created for use during the Administrative Review and Appeal Process: Administrative Review Checklist; CANRB Flowchart; the Administrative Review Disposition Letter, CS-21D; Administrative Review Ineligibility Letter, CS-21E; Law Enforcement-Prosecuting Attorney Notification Letter, CS-21F; and De Novo Judicial Review Disposition Letter, CS-21G. The Description of the Investigation Process, CS-24, has also been revised.

These updates have been made to assure consistency with current standards set forth in statute, case law, and the Code of State Regulations. Staff should begin using these new forms effective the date of this memorandum.

**Child Welfare Manual Revisions**

The alleged perpetrator appeal process section has been updated to include an overview and new subsections which describe the two avenues by which an alleged perpetrator can receive an independent review of the Division's preliminary finding of child abuse or neglect by a Preponderance of Evidence (POE). The updated sections contain the following:

- A detailed description of the Administrative Review Process, including regulatory timeframes;
- Steps to be taken if the administrative review is upheld or overturned and by whom;

- Clarification regarding cases which may be excluded from the appeal process;
- Directions regarding the use of newly developed forms;
- A description of eight possible scenarios which may occur during the Administrative Review Process;
- Guidance for processing cases in which there are criminal charges pending or an ongoing criminal investigation; and,
- A revision to the steps to be taken by the Child Abuse Neglect Review Board (CANRB).

### **Description of the Investigation Process, CS-24 Form**

The Description of the Investigation Process, CS-24, has been revised to reflect standards outlined in Missouri statute, case law, and the Code of State Regulations as it would relate to the alleged perpetrator's right to notice and due process.

### **Administrative Review Checklist and CANRB Flowchart**

The Administrative Review Checklist has been created for use by Circuit Managers, OHI Unit Manager, and Regional Office Designees in conjunction with the completion of the local Administrative Review. This resource tool can be found in the CD Forms folder on the desktop of staff workstations. In accordance with revised policy, the checklist is to be signed, dated, and placed with the CA/N Investigation record. The checklist is to be sent with the record to the CANRB for all cases in which the local Administrative Review upholds the preliminary POE determination. The [CANRB Flowchart](#) has also been developed for use as a reference tool for personnel involved in the Administrative Review Process. The flowchart may be located in the Reference Documents and Resources section of E-Forms.

### **Administrative Review Disposition Letters**

Two disposition letters have been developed for use by Circuit Managers, OHI Unit Manager, and Regional Office Designees following the local Administrative Review. Both forms may be located in the CD Forms folder on the desktop of staff workstations. The Administrative Review Disposition Letter, CS-21D, should be used to provide alleged perpetrators with disposition regarding the determination of the local Administrative Review. The Administrative Review Ineligibility Letter, CS-21E, should be used to provide alleged perpetrators with notice if they are ineligible to receive an appeal due to an ongoing criminal investigation, pending criminal charges, or if the Division's finding of child abuse or neglect by a POE has been Court Adjudicated. A copy of these letters should be placed in the CA/N Investigation record.

### **Law Enforcement-Prosecuting Attorney Notification Letter**

The Law Enforcement-Prosecuting Attorney Notification Letter, CS-21F, has been developed to provide field personnel with the ability to correspond with law enforcement or prosecuting attorneys in an effort to verify the existence of an open criminal

investigation or pending criminal charges. The CS-21F is to be used **prior** to the completion of the local Administrative Review in situations where there is a question about the alleged perpetrator's eligibility due to an open criminal investigation or pending criminal charges.

**De Novo Judicial Review Letter**

An alleged perpetrator has the ability to waive his or her right to the Administrative Review process and proceed directly to a De Novo Judicial Review by filing a petition in Circuit Court within thirty (30) days of the date that he or she received the CS-21. An alleged perpetrator may also proceed to a De Novo Judicial Review if they go through the Administrative Review process, and disagree with the decision of the Child Abuse Neglect Review Board (CANRB). At the conclusion of either trial, Division staff should receive written notification of the court's disposition. Upon receiving this documentation, staff should refer the court's finding through appropriate supervisory channels to the Division of Legal Services to establish if the Division's determination of child abuse or neglect by a Preponderance of Evidence is sustained (substantiated) or not. Staff should follow the steps outlined in policy to provide the alleged perpetrator, alleged victim child's parents or representative, and other parties entitled to such notice using the De Novo Judicial Review Disposition Letter, CS-21G.

<b>NECESSARY ACTIONS:</b>	
<ol style="list-style-type: none"> <li>1. Review this memorandum with all Children's Division staff.</li> <li>2. Review revised Child Welfare Manual chapters as indicated below.</li> <li>3. All questions should be cleared through normal supervisory channels and directed to:</li> </ol>	
<b>PDS CONTACT</b> Scott B. Montgomery, PDS 573-526-5408 <a href="mailto:Scott.B.Montgomery@dss.mo.gov">Scott.B.Montgomery@dss.mo.gov</a>	<b>PROGRAM MANAGER</b> Dena Driver 573-522-8024 <a href="mailto:Dena.D.Driver@dss.mo.gov">Dena.D.Driver@dss.mo.gov</a>
<b>CHILD WELFARE MANUAL REVISIONS</b> <a href="#">Section 2 Chapter 4.5 Alleged Perpetrator Appeal Process</a> <a href="#">Section 2 Chapter 4.5.1 Administrative Review Process</a> <a href="#">Section 2 Chapter 4.5.2 The Child Abuse/Neglect Review Board (CANRB)</a> <a href="#">Section 2 Chapter 4.5.3 De Novo Judicial Review</a>	
<b>FORMS AND INSTRUCTIONS</b> Description of the Investigation Process, CS-24 Administrative Review Disposition Letter, CS-21D Administrative Review Ineligibility Letter, CS-21E Law Enforcement-Prosecuting Attorney Notification Letter, CS-21F De Novo Judicial Review Disposition Letter, CS-21G Administrative Review Checklist	
<b>REFERENCE DOCUMENTS AND RESOURCES</b> <a href="#">CANRB Flowchart</a>	
<b>RELATED STATUTE</b> RSMo 210.145 RSMo 210.152 RSMo 210.183	
<b>ADMINISTRATIVE RULE</b>	

[Code of State Regulation 13 CSR 35-31.025](#)

**COUNCIL ON ACCREDITATION (COA) STANDARDS**

N/A

**CHILD AND FAMILY SERVICES REVIEW (CFSR)**

N/A

**PROTECTIVE FACTORS –N/A**

Parental Resilience

Social Connections

Knowledge of Parenting and Child Development

Concrete Support in Times of Need

Social and Emotional Competence of Children

**FACES REQUIREMENTS**

A Systems Change Request has been made to update the CS-21 generated by FACES.