

Sec. 17b-749-21. Administrative hearings

(a) Hearing Authority

Administrative Hearings shall be conducted by the department in accordance with the provisions of Chapter 54 of the Connecticut General Statutes.

(b) Right to an Administrative Hearing

(1) Parents shall have the right to request an administrative hearing if they are aggrieved by an action taken by the department, except in situations specified in subdivision (d)(2) of this section. Child care providers shall not have the right to an administrative hearing. A parent may request an administrative hearing if the parent is aggrieved by an action taken against a child care provider to the extent such action was not the result of a decision by the Department of Public Health to deny, suspend or revoke the provider's license.

(2) The request for an administrative hearing shall be made within sixty days of the date the parent was provided with written notice of the action.

(c) Aid Continuing Pending a Hearing

(1) Action to discontinue or reduce benefits shall be delayed until the administrative hearing decision is rendered under the following circumstances:

(A) if the parent requests a hearing within ten calendar days of the date the notice of adverse action is issued;

(B) if the action being taken is subject to an administrative hearing;

(C) if the action does not involve termination of payments due to the ineligibility of the child care provider; and

(D) if the parent requests benefits to continue.

(2) If the administrative hearing officer rules in favor of the Department, any benefits paid in error as the result of the delayed action shall be subject to recoupment.

(d) Reasons for Requesting an Administrative Hearing

(1) An administrative hearing may be requested if the family disagrees with any of the following actions, except where otherwise specified in subdivision (2) of this subsection:

(A) an application is denied or not acted upon timely;

(B) benefits are denied, reduced or discontinued;

(C) the receipt of benefits is adversely affected in any way;

(D) an eligibility requirement is imposed incorrectly;

(E) the amount of the income, fee or benefit calculation is incorrect;

(F) disapproval of an in-state child care provider for a reason not related to a violation of the Department of Public Health licensing requirements;

(G) a request for replacement of a lost, stolen or destroyed check was refused; or

(H) a requested good cause exemption of the child support requirements was denied.

(2) Families shall not be entitled to an administrative hearing for the following actions:

(A) when changes required by state or federal law are implemented that affect the general caseload or a specific priority group;

(B) if benefits are affected due to a change in the sliding fee scale or changes in the regional payment rates;

(C) if the commissioner opens or closes the wait list for a specific priority group or removes a priority group from the wait list;

(D) if the commissioner denies payment for a provider located in an adjoining state; or

(E) if the CCAP program is closed.

(e) **Notice Requirements**

(1) Parents shall be informed in writing of the following information any time action is taken to grant, deny, discontinue or modify benefits:

(A) the right to request an administrative hearing and the method by which an administrative hearing can be requested;

(B) that action may be delayed if a hearing is requested within ten days of the date the notice of adverse action is issued, and that any benefits paid in error as the result of the delay will be subject to recoupment if the administrative hearing official upholds the department's decision;

(C) that the family may represent itself or be represented by legal counsel, a relative, friend, or other spokesperson;

(D) the right to request resolution of the issue through someone not directly involved with the parent's case; and

(E) the availability of legal services and the toll free telephone number of statewide legal service organizations.

(2) The administrative hearing official shall notify the parent and the parent's representative of the following information:

(A) the time and place of the administrative hearing;

(B) the department's contact person;

(C) circumstances under which the hearing request may be dismissed;

(D) administrative hearing procedures; and

(E) the right to examine the case record prior to and during the administrative hearing.

(3) The CCAP administrator shall prepare a written summary of actions over which the parent is aggrieved and the reason for taking the action. The summary shall be distributed at least three business days prior to the date of the scheduled hearing to the administrative hearing officer and the parent or the parent's representative.

(f) **Scheduling and Location of the Administrative Hearing**

(1) The department shall schedule the administrative hearing within thirty days of the date the request is received. One continuance shall be granted to the parent for good cause as determined by the administrative hearing official. Additional continuances may be granted at the discretion of the administrative hearing official. The deadline for issuing a decision shall be extended by the length of the continuance.

(2) If the issue is resolved prior to the administrative hearing, the hearing shall be held unless the parent or his or her representative withdraws the request in writing or through other communication with the administrative hearing official.

(g) **Delegation of Authority to an Administrative Hearing Official**

(1) The commissioner may delegate authority to conduct administrative hearings, find facts, reach conclusions and make final decisions on his behalf to a discrete unit of the department or other person not personally involved in the decision that is the subject of the administrative hearing. The commissioner may limit the scope of the delegated authority in a directive that the authority is limited to conducting an administrative hearing.

(2) The administrative hearing official shall be an employee of the department who has not personally acted as an investigator in the contested case, including an eligibility

supervisor, caseworker or other individual with a personal interest in the case. The role of the administrative hearing official shall consist of scheduling the hearing and conducting the hearing, facilitating the hearing process and rendering a decision on behalf of the department.

(3) If the administrative hearing issue concerns a medical condition, disability or a child with special needs, the hearing official may order an independent medical assessment or evaluation from a source mutually satisfactory to the parent and the department. The department shall be responsible for paying for the independent assessment.

(h) Rights at an Administrative Hearing

(1) Subject to the limitations specified in subsection (e) of section 17b-749-02 of the Regulations of Connecticut State Agencies, the parent or his or her representative shall have the right to examine the case record and all documents to be used by the department at the administrative hearing before and during the administrative hearing.

(2) The parent may present his or her case or have it presented by legal counsel or another person representing the family.

(3) The parent shall have the opportunity to question or refute testimony, to present evidence, to confront and cross-examine adverse witnesses or to bring witnesses.

(4) The parent shall have the opportunity to present an argument without undue interference.

(i) Attendance at the Hearing

(1) The hearing shall be attended by an individual representing the department, the parent or the parent's representative pursuant to section 17b-60 of the Connecticut General Statutes.

(2) Both parties may call witnesses, except the administrative hearing official may restrict attendance when necessary to protect confidentiality.

(j) The Administrative Hearing Record

(1) The administrative hearing record shall consist of the hearing request, notices issued by the administrative hearing official, the transcript or recording of testimony, exhibits, all papers and requests filed in the proceeding and the hearing decision.

(2) The administrative hearing record shall be made available to the parent at a reasonable time for copying and inspection.

(k) Hearing Decision

(1) A decision shall be rendered within sixty days of the close of the hearing record based exclusively on evidence introduced at the hearing and contained in the hearing record.

(2) The decision shall be issued in writing to the parent, the parent's representative and to the CCAP administrator.

(3) The decision shall be considered binding upon the department, unless the department elects to reconsider the decision as described in subsection (l) of this section.

(4) The decision shall serve as a final resolution to the issue unless the parent appeals to a court of competent jurisdiction within forty-five days of the date the decision is issued pursuant to subsection (n) of this section.

(5) The hearing record shall be available for public inspection and copying, subject to the limitations of subsection (e) of 17b-749-02 of the Regulations of Connecticut State Agencies.

(l) Reconsideration of the Decision

(1) The parent or his or her representative shall have fifteen days from the date the hearing decision is issued to request the commissioner or his designee to reconsider the decision. Pursuant to section 4-181a of the Connecticut General Statutes, an administrative hearing decision shall warrant reconsideration if an error or fact of law should be corrected, if new evidence is discovered that materially affects the merits of the case which was not presented at the administrative hearing for good reason or if there is other good cause for reconsidering the decision.

(2) The commissioner or his designee shall have twenty-five days from the date the request is received by him to decide whether reconsideration is warranted.

(3) The Department may on its own initiative decide to reconsider the decision within forty days of the date of the decision was issued.

(4) If reconsideration is warranted, the parent and his or her representative shall be notified that the department plans to conduct additional proceedings as may be necessary to render a new decision.

(m) Implementation of Administrative Hearing Decision

(1) The department shall implement the appropriate changes or corrections within the timeliness standards for processing changes, unless otherwise specified by the administrative hearing official. Any benefits owed to the family shall be promptly restored.

(2) If the department is upheld, action shall be taken to recover any benefits that the family may have improperly received.

(n) Appealing the Decision

The parent or his or her representative has the right to appeal an administrative hearing decision to superior court in accordance with the requirements of section 17b-61 of the Connecticut General Statutes.

(Adopted effective July 10, 2001)