

**BRIGHT FROM THE START:
GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING
ABBREVIATED APPEAL PROCEDURES
CHILD AND ADULT CARE FOOD PROGRAM**

These abbreviated appeal procedures are issued pursuant to 7 Code of Federal Regulations (CFR) Section 226.6(k) (9).

PURPOSE

The State agency must limit the administrative review to a review of written submissions concerning the accuracy of the State agency's determination if the application was denied or the State agency proposes to terminate the institution's agreement because:

- (i) The information submitted on the application was false; or
- (ii) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list; or
- (iii) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program; or
- (iv) The institution or one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity.

ACTIONS SUBJECT TO THE ABBREVIATED APPEAL

- 1. Application Denial
- 2. Proposed Termination of the Institution's Agreement

POLICY

The Georgia Administrative Procedure Act, O.C.G.A. Section 50-13-1 et seq., governs the appeal procedures for institutions.

Notices of adverse action shall be issued by the state agency in writing and shall state the type of action, the cause for the action, and if applicable, the financial effects. Notices shall also describe the institution's right to appeal the action and these procedures.

Institutions that appeal an adverse action must request a review of the record. This request must be in writing and received by the agency within fifteen (15) days following the day of receipt of the agency's notice of adverse action. The state agency must acknowledge the receipt of the request for an administrative review within ten (10) days of its receipt of the request. The request must identify the name, address and telephone number of the Appellant's attorney, if the Appellant has one at the time of the appeal request, and the specific adverse action(s) the Appellant wishes to appeal. Once received, the agency will then transmit the request to The Office of State Administrative Hearings (OSAH) for handling along with all pertinent written documentation that led to the action. The agency will provide the Appellant with a copy of the documents it transmits to OSAH requesting a review of the record on the Appellant's behalf.

Decisions of the Administrative Law Judge will be rendered in a timely manner, in accordance with the federal regulations (7 CFR 226.6(k)(5)(ix)).

The adverse action shall remain in effect while the appeal process is ongoing. During this timeframe, the Appellant may continue to submit claims for reimbursement under the CACFP until the Administrative Law Judge issues a Final Decision; provided, however, that claims may not be submitted for payment by an institution in any situation in which the underlying adverse action is based on imminent danger to the health and welfare of the participants or fraud (7 CFR 226.6 (c)(5)). In all other instances, institutions shall be reimbursed for any meals served that are supported by appropriate documentation.

PROCEDURES

All appeal requests of adverse actions must be submitted in writing to the Chief Legal Officer, Bright from the Start, 2 Martin Luther King Jr. Drive SE, 754 East Tower, Atlanta, GA 30334 . Such written requests must be submitted or mailed to Bright from the Start within fifteen (15) days following the day of receipt of the agency's notice of adverse action. The state agency must acknowledge the receipt of the request for an administrative review within 10 days of its receipt of the request. The request must identify the specific adverse action(s) the Appellant wishes to appeal, and the name, address and telephone number of the Appellant's attorney, if one has been retained at the time of the appeal request. Bright from the Start will forward the appeal request to OSAH and provide the Appellant with a copy of the transmittal.

Review of the Record. Any information on which the State agency's action was based must be available to the institution and the responsible principals and responsible individuals for inspection from the date of receipt of the request for an administrative review.

Opposition. The institution and the responsible principals and responsible individuals may refute the findings contained in the notice of action in person or by submitting written documentation to the administrative review official. In order to be considered, written documentation must be submitted to the administrative review official not later than 30 days after receipt of the notice of action.

The Administrative Law Judge will issue a Final Decision in writing to the Appellant and Bright from the Start and will contain findings of fact and conclusions of law. This Final Decision will be based on the documentation and evidence presented by the parties in accordance with federal regulations 7 CFR 226.6(k)(5)(iv) through (x).

Should the Appellant wish to appeal the Final Decision issued by the Administrative Law Judge, a petition for judicial review must be filed with either the Superior Court of Fulton County or the Superior Court of the county of the Appellant's residence within thirty (30) calendar days after the Final Decision has been served.

Overpayment Demand. During the period of the administrative review, Bright from the Start is prohibited from taking action to collect or offset the overpayment. However, Bright from the Start shall assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns Bright from the Start's action.

Recovery of Advances. During the administrative review, Bright from the Start will continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period.

The recovery may be through a demand for full repayment or an adjustment of subsequent payments.

Program Payments. Unless participation has been suspended, Bright from the Start will continue to pay any valid unpaid claims for reimbursement for eligible meals served and allowable administrative expenses incurred until the serious deficiency(ies) is corrected or the institution's agreement is terminated, including the period of any administrative review.

If you have any questions concerning this policy, please direct them to the Chief Legal Officer.

Revised July 11, 2013