



Georgia Department of Early Care and Learning

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Nathan Deal
Governor

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Commissioner

MEMORANDUM

To: All Institutions Participating in the Child and Adult Care Food Program (CACFP)

From: Falita S. Flowers, Nutrition Services Director

Date: June 11, 2014

Subject: Suspension of an Institution's Participation in the Child and Adult Care Food Program

Legal Authority: 7 C.F.R. §226.6(c)(5)(i)-(ii)

The purpose of this memorandum is to describe Bright from the Start's Nutrition Services Division's procedures for suspending an institution as a result of a serious health and safety violation and/or the submission of false/fraudulent claims.

Suspension refers to a period of time (prior to the termination of a Program agreement) when an institution's Program participation, including Program payments, is suspended. Federal Regulations (7 C.F.R. 226.6(c)(5)(i)-(ii) outlines circumstances under which State agencies must or may suspend an institution.

Health and Safety Violations

Bright from the Start **must** suspend an institution if:

- Bright from the Start determines there is imminent threat to the health or safety of program participants or the public;
- the institution has engaged in activities that threaten the public health or safety of program participants; or
- the institution has been cited for a serious health or safety violation by State or local licensing officials.

Based upon the aforementioned criteria, Bright from the Start will withhold Program reimbursement at the beginning of the suspension, serious deficiency, proposed termination and proposed disqualification process. In addition, Bright from the Start will issue a notice of a suspension, serious

deficiency, proposed termination and proposed disqualification as well as appeal procedures to the institution (including the executive director, chairman of the board and responsible principals and responsible individuals). Bright from the Start will initiate these actions prior to a formal revocation or a formal recommendation from the state or local authority. The institution may appeal the suspension and proposed termination and proposed disqualification (See also Bright from the Start Policy Memo, "*Health and Safety Requirements - Independent and Center Sponsors, dated October 31, 2013,*" and Bright from the Start's *Appeal Procedures*).

Submission of False or Fraudulent Claims

If the Bright from the Start determines that an institution has knowingly submitted a false or fraudulent claim, the Bright from the Start may initiate action to suspend the institution's participation and must initiate action to terminate the institution's agreement and initiate action to disqualify the institution and the responsible principals and responsible individuals.

If suspension is warranted, Bright from the Start will issue a notice of proposed suspension, serious deficiency, proposed termination and proposed disqualification as well as appeal procedures to the institution (including the executive director, chairman of the board and responsible principals and responsible individuals). If suspension is not warranted, Bright from the Start will continue with the serious deficiency and proposed termination and proposed disqualification process.

When Bright from the Start elects to propose suspension of the institution's participation, Bright from the Start will notify the institution of its "abbreviated appeal" rights, which consists of a documentation review and is available to institutions before a suspension for submission of false or fraudulent claims takes affect (See Bright from the Start's *Abbreviated Appeal Procedures*). If submitting a request for an appeal, the institution must specify the request is for both: (a) the proposed suspension appeal; and (b) the proposed termination and proposed disqualification (these are two separate actions). Bright from the Start will release payment for valid claims during the suspension period if the institution requests an appeal and Bright from the Start's decision to suspend payments is reversed.

Under suspensions, the "abbreviated appeal" does not resolve any appeal option that the institution may request of Bright from the Start's proposed termination and disqualification of the institution. The suspension of an institution's participation will not remain in effect for more than **120** days following the suspension review decision.

If the institution requests an appeal, Bright from the Start will continue with the serious deficiency process against the suspended institution. If the institution's corrective action is accepted by Bright from the Start, the serious deficiency is temporarily deferred and the suspension/proposed termination and disqualification is removed, and the institution can continue to participate in the CACFP. If the serious deficiency process is unresolved (the institution fails to provide adequate corrective action), Bright from the Start will continue the termination process.

Bright from the Start is prohibited from paying any claims for reimbursement submitted by a suspended institution. However, if the institution suspended for the submission of false or fraudulent claims is a sponsoring organization, Bright from the Start will ensure sponsored facilities continue to receive reimbursement for eligible meals served during the suspension period.

Review Official and Final Decision

The final decision to uphold or overturn Bright from the Start's decision to suspend payments is made by

an Office of State Administrative Hearings administrative law judge who is independent and impartial. Bright from the Start will promptly notify the institution (including the board chair, the executive director, and the responsible principals and individuals) of the administrative law judge's final decision. If the administrative law judge upholds Bright from the Start's decision, Program payments are effective on the date that the review official renders his/her decision. If the suspended institution prevails in the administrative review (appeal) of the proposed termination, Bright from the Start will pay any valid unpaid claims for reimbursement for eligible meals served and allowable administrative costs incurred during the suspension period.

For questions concerning this memorandum, please contact Sonja Adams, Policy Administrator at (404) 651-8193.