

CONSOLIDATED CONTESTED CASE EXAMPLES

1. LICENSING SANCTION BASED ON MALTREATMENT: The county child protection agency determined maltreatment against a family child care provider for maltreatment of her teenage daughter. The LH requested reconsideration and the county upheld the maltreatment determination. The LH timely requested a fair hearing on the maltreatment. The county licensing agency recommended a fine based on the maltreatment determination. DHS issued an Order to Forfeit a Fine, including a notice of right to request a contested case hearing. The scope of the contested case hearing will include the maltreatment determination and the Order to Forfeit a Fine. Although the individual previously requested a fair hearing regarding the maltreatment determination, a separate fair hearing will not be held due to the right to a contested case hearing.
2. LICENSING SANCTION BASED ON A DISQUALIFICATION NOT SET ASIDE: An individual has applied for a child foster care license. DHS' background study revealed that there was a disqualification for preponderance of evidence of fifth degree assault. The individual requested reconsideration of the disqualification based on correctness and risk of harm. DHS did not set aside the disqualification or grant a variance. The county/private agency recommended denial of the application. DHS issued an Order of Denial advising the applicant of the right to a consolidated contested case hearing. The scope of the hearing will include the correctness of the disqualification, whether or not the individual poses a risk of harm based on the disqualification, and the denial. A separate fair hearing will not be held on the disqualification.
3. LICENSING SANCTION BASED ON MALTREATMENT AND DISQUALIFICATION NOT SET ASIDE: The county child protection agency determined maltreatment against the spouse of a family child care provider. The county licensing agency disqualified the individual based on serious maltreatment. The county sent the individual a consolidated notice including the determination of maltreatment and resulting disqualification. The individual requested reconsideration of both determinations. The county conducted a consolidated reconsideration of both determinations. The county upheld the maltreatment determination and did not set aside the disqualification or grant a variance to the disqualification. The county advised the individual of the right to a fair hearing. After the county issued the dual reconsideration response, the county recommended a revocation of the license based on the maltreatment and the not set aside of the disqualification. DHS issued an order of revocation, including a notice of a right to a contested case hearing. The individual requested a fair hearing regarding the maltreatment and disqualification determination. The license holder requested a contested case hearing on the revocation. The parties have agreed to a consolidated hearing. The scope of the contested case hearing will include the maltreatment finding, the disqualification, and the revocation. A separate fair hearing will not be held on the maltreatment and disqualification.
4. FAILURE TO APPEAL MALTREATMENT AND/OR DISQUALIFICATION DETERMINATION: In each of the above examples, if the individual or license holder did not timely exercise their due process rights regarding the maltreatment and/or disqualification determination, but appeals the licensing sanction or denial based on the determination(s), the scope of the contested case hearing will be limited to the sanction or denial.
5. LICENSING SANCTION BASED ON PREVIOUS MALTREATMENT: When consolidated hearings involve a licensing sanction based on a previous maltreatment determination for which the commissioner has issued a final order, or the individual failed to timely exercise the right to appeal the previous determination, the previous maltreatment determination is conclusive. In such cases, the scope of the contested case hearing will be limited to the sanction.
6. LICENSING SANCTION BASED ON MALTREATMENT BY A NON-LICENSE HOLDER: In the case of a denial of a license or a licensing sanction issued to a license holder based on a maltreatment determination regarding an individual who is not the license holder, when all parties have agreed to a consolidated hearing, the scope of the contested case hearing will include the individual's maltreatment determination as well as the licensing sanction.