

Bulletin

January 23, 2014

Minnesota Department of Human Services -- P.O. Box 64941 -- St. Paul, MN 55164-0941

OF INTEREST TO

- County Directors
- County Child Care Administrative and Client Access Contacts
- County Family Child Care Licensing Supervisors
- County Family Child Care Licensors
- Tribal Representatives

ACTION/DUE DATE

Please implement as specified in the bulletin

EXPIRATION DATE

January 23, 2016

Child Care Assistance Program (CCAP) Payments to Providers with Revoked or Suspended Licenses

TOPIC

This bulletin gives guidance about Child Care Assistance Program (CCAP) payments to child care providers who have had their licenses suspended or revoked, but are operating under appeal.

PURPOSE

To provide information and instructions to county and tribal agencies about actions related to child care payments authorized under Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), clause (4).

CONTACT

Contact your CCAP technical liaison or submit your questions through PolicyQuest.

SIGNED

ERIN SULLIVAN SUTTON
Assistant Commissioner
Children and Family Services Administration

Terminology Disclaimer

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language. Although outmoded and offensive terms might be found within this document, DHS does not endorse these terms.

I. Background

During the 2012 legislative session, changes were made to Minnesota Statutes, section 119B.13, subdivision 6(d). The changes allow counties to refuse to issue a child care authorization, revoke an existing child care authorization, or stop payments during times when a child care provider is out of compliance with certain Child Care Assistance Program (CCAP) or licensing regulations. The Minnesota Department of Human Services (DHS) issued bulletin #12-69-02 on June 25, 2012, which summarized this change and other changes.

This bulletin provides specific guidance to counties for situations when a child care provider has had their license suspended or revoked, but continues operating because the license suspension or revocation is either under appeal or subject to appeal.

II. Minnesota Statutes, section 119B.13, subdivision 6(d)

Minnesota Statutes, section 119B.13, subdivision 6(d) states:

A county may refuse to issue a child care authorization to a licensed or legal nonlicensed provider, revoke an existing child care authorization to a licensed or legal nonlicensed provider, stop payment issued to a licensed or legal nonlicensed provider, or refuse to pay a bill submitted by a licensed or legal nonlicensed provider if:

- (1) the provider admits to intentionally giving the county materially false information on the provider's billing forms;
- (2) a county finds by a preponderance of the evidence that the provider intentionally gave the county materially false information on the provider's billing forms;
- (3) the provider is in violation of child care assistance program rules, until the agency determines those violations have been corrected;
- (4) the provider is operating after receipt of an order of suspension or an order of revocation of the provider's license, or the provider has been issued an order citing violations of licensing standards that affect the health and safety of children in care due to the nature, chronicity, or severity of the licensing violations, until the licensing agency determines those violations have been corrected;
- (5) the provider submits false attendance reports or refuses to provide documentation of the child's attendance upon request; or
- (6) the provider gives false child care price information.

During the 2013 legislative session, additional changes were made to Minnesota Statutes, section 119B.13, subdivision 6(d). Effective February 3, 2014, the following language will be added:

The county may withhold the provider's authorization or payment for a period of time not to exceed three months beyond the time the condition has been corrected.

III. Guidance for Minnesota Statutes, section 119B.13, subdivision 6 paragraph (d), clause (4)

A. Licensing and CCAP regulations

Licensing regulations allow providers to continue to operate and serve children when the provider has had their license suspended or revoked, but the suspension or revocation is under appeal or subject to appeal. MEC² does not automatically prevent authorization or payment when a provider continues operating after their license has been suspended or revoked if the suspension or revocation is under appeal or subject to appeal.

Note: Licensing regulations do not allow providers to continue to operate or serve children when the license has been immediately suspended. The statuses associated with this are Temporary Immediate Suspension, Temporary Immediate Suspension: Subject to Appeal, or Temporary Immediate Suspension: Under Appeal. When a provider's license is updated with one of these statuses, MEC² automatically closes the provider's authorization and all Service Authorizations without a 15-day notice. CCAP payments cannot be made to a provider with these licensing statuses. Refer to Minnesota Statutes, section 245A.07, subdivision 2 and Minnesota Rules, part 3400.0035, subpart 5, item E.

According to Minnesota Statutes, section 119B.13, subdivision 6(d) (4), counties may refuse to issue an authorization, revoke an existing authorization, or stop payments when the provider continues operating after their license has been suspended or revoked. As with other county optional policies, counties must apply these policies consistently (i.e. if the county decides to stop payments when a provider's license is revoked but under appeal, the county must stop payments to all providers who meet this criteria).

Prior to refusing to issue an authorization, revoking an existing authorization, or stopping payments based on these situations, contact your CCAP technical liaison to discuss plans for moving forward and whether your County Child Care Plan needs to be amended. DHS will facilitate coordination with other counties as needed.

B. MEC² Instructions

If the county decides to revoke an existing authorization, and therefore stop payments, when a provider has had their license suspended or revoked but the suspension or revocation is under appeal or subject to appeal, follow the instructions below. Also refer to Attachment A for MEC² and worker actions for various licensing statuses.

1. Close the provider's registration:
 - a. Follow the instructions in "Close a Provider" section of the MEC² User Manual. Select "Failed CCAP Provider Requirements" as the End Reason.
 - b. A 15-day notice of adverse action will be generated by MEC² and sent to the provider. The MEC² generated notice will list Minn. Stat. §119B.13 subd. 6 as the reason for closure.

If the county wants to be more specific, insert a comment on the notice that says “You are no longer authorized to receive Child Care Assistance payments in _____ County because you are operating after receipt of an order of suspension or revocation. Minn. Stat. §119B.13, subd 6(d) (4).” This comment would need to be added on the day the action is taken to close the provider’s registration.

2. Close the Service Authorizations for all families authorized with the provider.
 - a. A 15-day notice, in the form of Service Authorizations with an end date, will be automatically generated by MEC² and sent to the parent and provider when the provider’s registration is closed. If the children in the family are only authorized with one provider, the family’s case will be suspended until another provider is identified.
 - b. In addition to the MEC² generated Service Authorization, DHS recommends that the county send a separate MEC² generated memo informing the family that their eligibility has not been stopped or reduced and providing the family with Child Care Aware contact information for assistance with finding another provider.

Counties have the option of sending notice to providers and families using a variety of methods. Agencies can use MEC² notices, county-optional forms that are approved by DHS, or a combination of county forms and MEC² notices. Use of a county optional form requires amending your County Child Care Plan.

C. Legal Nonlicensed Child Care Provider Information

Minnesota Statutes, section 119B.125, subdivision 2 lists conditions under which a person cannot be authorized as a legal nonlicensed provider. These conditions include, but are not limited to: a person who has been denied a family child care license or has received a fine or a sanction as a licensed provider that has not been reversed on appeal and/or a person who has a family child care licensing disqualification that has not been set aside. This means that a provider who has had their CCAP authorization revoked because their child care license has been suspended or revoked but they are operating under appeal cannot be authorized as a legal nonlicensed provider unless and until the suspension or revocation is reversed as a result of the appeal.

IV. Guidance for Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), clauses (1, 2, 3, 5 & 6)

This bulletin provides guidance for situations where the county decides to revoke an existing authorization or stop payments when the provider’s license has been suspended or revoked and the provider continues operating while a licensing appeal is pending. DHS will issue guidance about other situations listed in Minnesota Statutes, section 119B.13, subdivision 6 in the future. Prior to refusing to issue an authorization, revoking an existing authorization, or stopping payments based on these situations, contact your CCAP technical liaison to discuss plans for moving forward and whether your County Child Care Plan needs to be amended. DHS will facilitate coordination with other counties as needed.

V. How to Find Licensing Sanction Information

Information about licensing sanctions, including suspensions and revocations, can be obtained through a number of different sources. Refer to Attachment A for information about different methods of notification to the county for suspended and revoked licensing statuses:

- County child care licensors: County social services agencies enforce licensing standards for Licensed Family Child Care providers. Counties should ensure that there is communication between county licensing staff and county CCAP staff when a provider is operating after an order of suspension or revocation has been issued.
- DHS staff: The DHS Division of Licensing enforces licensing standards for Licensed Centers. Counties may call 651-431-6500 for information about a provider's licensing status.
- MEC²: To check the licensing status of a particular provider, go to the "License" window within the "Information" section for that provider. The "Status" field will display the current licensing status for the provider. Licensing status is updated nightly. The licensing statuses specifically addressed in this bulletin will show up as:
 - Active-Revoked: Subject to Appeal
 - Active-Revoked: Under Appeal
 - Active-Suspended: Subject to Appeal
 - Active-Suspended: Under Appeal
- DHS Licensing Information Lookup has a search feature for licensed programs where individual licensed programs can be searched and public documents, including suspensions and revocations, issued since July 1, 2010, can be viewed. The link to this tool is: <http://licensinglookup.dhs.state.mn.us/>.
- DHS Licensing Information Lookup also has a public documents subscription feature where individuals can sign up to receive email notification of new licensing documents that are posted daily. The emails includes links to newly published licensing documents issued by DHS for child care centers, family child care providers, and other types of licensed programs.

VI. Questions from Providers

If a provider contacts you with questions about the status of their license, or they wish to appeal the suspension or revocation of their child care license:

- Direct them to follow the appeal instructions in the Order of Suspension or Revocation and to contact the DHS supervisor at the number provided in the order if they have further questions.
- For other questions about license status, Licensed Family Child Care Providers should be directed to contact your agency's assigned family child care licensor.
- For DHS Licensed Child Care Centers – providers should be directed contact their assigned licensor or the DHS Licensing Division at 651-431-6500.

If a provider contacts you because they wish to appeal the CCAP decision to terminate their registration and/or end a child's Service Authorization, inform the provider:

- Providers do not have the right to appeal these types of action to the DHS Appeals Office.
- The family may file an appeal with the DHS Appeals Office, if the family disagrees with the agency's decision to end a Service Authorization.

VII. Questions from Families

If a family contacts you with questions about their CCAP case:

- Remind the family that they are still eligible for CCAP and that they can choose another provider.
- Refer parents who are searching for a new provider to their local Child Care Aware Agency online at www.childcareawaremn.org or by phone at 888-291-9811.
- Inform parents of their right to file an appeal with the DHS Appeals Office. The address and phone number of the DHS Appeals Office are:

Minnesota Department of Human Services

Appeals Office

P.O. Box 64941

St. Paul, MN 55164-0941

Metro: 651-431-3600 (Voice)

Outstate: 800-657-3510

TTY: 800-627-3529

Fax: 651-431-7523

- The appeal must be requested within 30 days after getting the notice of adverse action or within 90 days if the client can show good cause for not making a request within 30 days.
- If a parent requests an appeal before the effective date of the adverse action or within 10 days after the date of mailing the notice of adverse action, the participant may choose to continue to receive benefits with the provider if the provider is legally allowed to operate and serve children. If a parent chooses to continue receiving benefits, inform them that if they lose the appeal, the benefits received during the appeal will be overpayments. See CCAP Policy Manual §15.15 Continuation of Benefits.

LEGAL AUTHORITY

Minnesota Statutes, section 119B.13, subdivision 6

Minnesota Statutes, section 119B.16

Minnesota Rules, part 3400.0230

Bulletin #14-68-02

January 23, 2014

Page 7

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling (651) 431-3809 (voice) or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.

Attachment A Overview of Licensing Status Changes in MEC²

MEC² Licensing Status	Method of Notification to County	MEC²/Worker Actions		
Active-Revoked: Subject to Appeal	MEC ² will not generate alerts informing the provider worker or case worker that the provider’s licensing status changed.	<p>If the county decides to revoke an existing authorization or stop payments when a provider has had their license suspended or revoked but the suspension or revocation is under appeal or subject to appeal, workers may take the following actions, which allow for 15-day notice:</p> <ul style="list-style-type: none"> • Close the provider’s registration, which automatically sends: <ul style="list-style-type: none"> – The provider a closing notice and closing Service Authorizations for all families authorized. – All families authorized with the provider closing Service Authorizations. • Send affected families a separate MEC² generated memo informing the family that their eligibility has not been stopped or reduced and providing the family with Child Care Aware contact information for assistance with finding another provider. 		
Active-Revoked: Under Appeal	Counties may develop processes for monitoring information about licensing violations. Information about violations can be obtained through the following sources:			
Active-Suspended: Subject to Appeal	<ul style="list-style-type: none"> • County child care licensors that enforce licensing standards for Licensed Family Child Care providers; • DHS staff • MEC² License window • DHS Licensing Information Lookup; or • DHS Licensing Information Daily Emails. 			
Active-Suspended: Under Appeal				
Closed	<p>MEC² will automatically generate alerts to:</p> <ul style="list-style-type: none"> • The provider worker informing the worker that the provider’s registration status is closed; and • The case worker informing the worker the Service Authorization has been auto-closed. 	<p>MEC² will automatically do the following for all Financially Responsible Agencies where the provider is registered and for all children currently authorized for care with that provider:</p> <ul style="list-style-type: none"> • Send the provider a 15-day notice informing them that they are no longer eligible to receive CCAP payments because their license has been closed; and • Send the provider and the family a 15-day notice informing them that the Service Authorization is ending because the provider is no longer eligible.* 		
Closed-Revoked: Under Appeal				
Closed-Suspended: Under Appeal				

Attachment A Overview of Licensing Status Changes in MEC²

MEC² Licensing Status	Method of Notification to County	MEC²/Worker Actions
Temp Immediate Susp	<p>MEC² will automatically generate alerts to:</p> <ul style="list-style-type: none"> • The provider worker informing the worker that the provider’s registration status is closed; and • The case worker informing the worker the Service Authorization has been auto-closed. 	<p>MEC² will automatically do the following for all Financially Responsible Agencies where the provider is registered and for all children currently authorized for care with that provider:</p> <ul style="list-style-type: none"> • Send the provider a notice of adverse action informing them that effective immediately, they are no longer eligible to receive CCAP payments because they cannot legally operate; and • Send the provider and the family a notice of adverse action informing them that effective immediately, the Service Authorization is ending because the provider is no longer eligible.*
Temp Immediate Susp: Subject to Appeal		
Temp Immediate Susp: Under Appeal		

* If the children in the affected family are only authorized with one provider, this will result in the family’s case being suspended until another provider is identified.