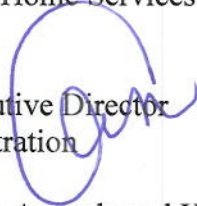


**DEPARTMENT OF HUMAN RESOURCES
SOCIAL SERVICES ADMINISTRATION
311 WEST SARATOGA STREET
BALTIMORE, MARYLAND 21201**

DATE: November 15, 2013

POLICY #: SSA - CW #14-9

TO: Directors, Local Department of Social Services
Assistant, Directors of Services
Appeal Coordinators, In-Home Services Supervisors
CPS Supervisors

FROM: Carnitra D. White, Executive Director
Social Services Administration 

RE: Child Protective Services Appeals and Hearings Policy Directive

PROGRAM AFFECTED: Child Protective Services Investigation and In-Home Family Services

ORIGINATION OFFICE: Social Services Administration, In-Home Family Services

ACTION REQUIRED OF: All CPS Appeal Coordinators and Appeal Supervisors

REQUIRED ACTION: Proper statewide use of all CPS Appeal and Hearing forms

ACTION DUE DATE: November 30, 2013

CONTACT PERSON: Steve Berry, LCSW-C
Program Manager, In-Home Family Services
Social Services Administration
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PURPOSE:

The purpose of this directive is to establish statewide guidelines for offering appropriate appeal rights in child protective services investigations, alternative responses, and related service cases. This policy directive will also clarify and update DHR/SSA Policy #12-31, which formerly required local departments to offer certain individuals fair hearings at the closure of CPS investigations. In response to several recent Office of Administrative Hearings decisions, LDSSs will no longer offer these fair hearings at the close of CPS investigations. Nor will LDSSs offer appeal rights at the end of alternative response cases.

BACKGROUND:

The Maryland Department of Human Resources (DHR) is responsible for administering and monitoring policies related to the appeals and hearings process for Child Protective Services (CPS) responses. Traditionally in Maryland, each Local Department of Social Services (LDSS) has been responsible for providing individuals the opportunity to appeal under two distinct sets of circumstances. First, each LDSS provides individuals alleged to have been responsible for indicated or unsubstantiated child abuse or neglect the opportunity to appeal the finding. This type of appeal has traditionally been referred to as the "CPS appeal".

Second, each LDSS provides certain individuals the opportunity to appeal the agency's plan to reduce, suspend, or deny services. This type of appeal is commonly referred to as a "fair hearing". This policy outlines the local department's obligations to individuals and families regarding both CPS appeals and fair hearings.

AUTHORITY:

Under the authority of Maryland Family Law Article 5-701 to 5-714, and COMAR 07.01.04, 07.02.07, and 07.02.26, persons involved in a CPS investigation must be offered an opportunity to appeal the LDSS's finding and certain decisions regarding agency services.

According to **COMAR 07.02.07.16**, upon the completion of a CPS investigation and before a LDSS closes its record of investigation, it shall:

- A. Ensure that the record is complete;
- B. Send notice to the individual found responsible for alleged abuse or neglect of the finding and, if applicable, of the right to appeal under COMAR 07.02.26; and
- C. Send notice to the individual or individuals responsible for the alleged victim's welfare of the finding, stating that:
 - (1) Services are being terminated and that the individual has a right to appeal the termination of services pursuant to COMAR 07.01.04; or
 - (2) The case is being referred for additional services.

COMAR 07.02.07.22 requires that:

An individual who is identified as an alleged abuser or alleged neglecter in an investigation resulting in an indicated or unsubstantiated finding may request a hearing in accordance with COMAR 07.02.26

COMAR 07.02.07.26.01 also requires that:

- A. Except as set forth in §B of this regulation, an individual found responsible by a local department for indicated or unsubstantiated child abuse or neglect is entitled to an opportunity to appeal in accordance with this chapter.
- B. In those cases in which, before June 1, 1999, a local department offered an individual an opportunity to appeal a finding of child abuse or neglect, that appeal will be conducted in accordance with the procedures applicable at the time the local department notified the individual of the opportunity to request a hearing.

Outline of Maryland Policy:

CPS APPEALS

DHR requires that LDSS appeals units offer individuals found responsible for “**indicated**” or “**unsubstantiated**” child abuse or neglect the opportunity to appeal the finding, either through a CPS case conference at the local department, in the case of an unsubstantiated finding, or a contested case hearing at the Office of Administration Hearings:

- 1) In addition, as a result of a Court of Appeals decision in *Dep’t of Hum. Res. v. Hayward*, 426 Md. 638 (2012), a LDSS must offer appeal rights to AN individual reported to have abused or neglected a child in any case in which the finding is unsubstantiated or indicated and no maltreater has been identified or ruled out.

FAIR HEARINGS

DHR requires that the LDSS appeals unit offer each individual an opportunity to appeal the reduction, suspension, or denial of services, through a fair hearing when:

- 1) Services are being terminated, suspended, reduced or denied by the local department; or
- 2) In the case of a CPS investigation or alternative response, **ONLY** if a service case was opened as part of or as a result of the CPS response (*a service case does not include the use of flex funds to provide payment for services.*)

LDSSs WILL NO LONGER OFFER APPEAL RIGHTS AT THE CLOSURE OF A CPS INVESTIGATION AND WILL NOT OFFER APPEAL RIGHTS AT THE CLOSURE OF AN ALTERNATIVE RESPONSE.