



State of New Jersey

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June 4, 2014

**TO: CHILD CARE RESOURCE AND REFERRAL (CCR&R) DIRECTORS
CHILD CARE PROVIDER**

**SUBJECT: DISQUALIFICATION OF PROVIDERS TO RECEIVE CHILD CARE
SUBSIDY PAYMENTS**

DFD Instruction No. 14-06-01

Regulatory References: N.J.A.C. 10:15-2.4; N.J.A.C. 10:15-10.2; N.J.A.C. 10:15-10.4; N.J.A.C. 10:126 and 10:126A; N.J.A.C.10:84-2.1 et seq.

This instruction will impact the following programs: DFD Child Care Programs

PURPOSE

To provide guidance to the CCR&Rs regarding the provider disqualification process.

BACKGROUND

To qualify for child care payments, a child care provider/program shall meet the following requirements, in accordance with N.J.A.C. 10:15-10.2:

- (1) Centers shall be licensed by the Department of Children and Families (DCF), Office of Licensing.
- (2) Summer camps shall be approved by the New Jersey Department of Health (DOH) pursuant to N.J.S.A. 26:12-1 et seq. and N.J.A.C. 8:25.
- (3) All Family Child Care Providers (FCC) who serve three or more non-sibling children shall be registered pursuant to the Manual of Requirements for Family Child Care Registration (see N.J.A.C. 10:126 and 10:126A).

- (4) Providers who serve one or two children must either be registered pursuant to N.J.A.C. 10:126 or be approved by the Department of Human Services (DHS).
- (5) Providers who are not registered above shall be approved by the DHS in order to qualify for payment through any child care service program. Unregulated providers (Family, Friend and Neighbor (FFN) and In-home Child Care providers) shall be eligible for approved home status. The minimum requirements for approval of the home are:
 - a. an inspection of the home using the Self-Arranged Care Inspection and Interview Checklist (see N.J.A.C. 10:15-2.4(a)10)
 - b. an interview of the provider and family members by the CCR&R
 - c. a child abuse record information check completed for all prospective approved home providers and all household members of the home 14 years of age and older conducted by the Department of Children and Families and any requirements pursuant to the Child Care Development Block Grant (CCDBG) statute and the Child Care and Development Fund (CCDF) regulations.
- (6) Providers must comply with all of the E-Child Care (ECC) terms and conditions as set forth by the E-Child Care Parent/Provider Responsibilities and Agreement.

Failure to abide by the aforementioned requirements shall subject a child care provider/program to disqualification.

Further, any substantiated case of fraud shall subject a child care provider/program to disqualification. In order to enforce the Federal policy regarding fraud, the State will attempt to recoup any child care subsidy funds that were expended as a result of a provider/program providing false information (including Social Security Numbers), encouraging others to hold back information, or failing to report information required to comply with program eligibility or payment requirements.

DISQUALIFICATION PROCESS

Providers are required, at all times, to comply with New Jersey Child Care Subsidy program regulations and policies. Pursuant to N.J.A.C. 10:84-2.1, et seq. and Executive Order #34 (Governor Brendan Byrne, 1976), DHS may suspend, debar, or disqualify a Provider, Provider Agency or Affiliate of a Provider Agency from contracting with the Division of Family Development on the basis of lack of responsibility as evidenced by an offense, failure, or inadequacy of performance, for a reasonable period of time commensurate with the seriousness of the offense, failure, or inadequacy of performance. Suspension or debarment causes include, but are not limited to: the violation of State or Federal laws incident to obtaining a contract or in the performance of a contract, State or Federal offenses indicating a lack of business integrity or honesty, willful failure to perform or a record of failure to perform in accordance with the contracting terms, and any other cause affecting responsibility as a State contractor of such a serious and compelling nature as may be determined by DHS. The decision to suspend, debar, or disqualify a Provider, Provider Agency or Affiliate thereof is within the discretion of DHS, unless otherwise provided by law, and shall be rendered in the best interests of the State.

A case of program violation can be brought to the attention of the Department of Human Services, Division of Family Development (DFD) and/or the CCR&R through a variety of sources, such as a phone call, letter, e-mail, newspaper article, television news broadcast, personal knowledge, or review of the provider file. The CCR&R will conduct an investigation to determine whether or not the program violation or fraud is substantiated. The CCR&R shall seek DFD's guidance on cases where further clarification is required.

Any type of substantiated program violation found by any state agency or its designee will subject the provider to one or more of the following penalties:

- Written Warning Notice (specific to ECC program violations)
- Exclusions from receiving payments through the state child care subsidy program
- Suspension, debarment, or disqualification
- Criminal investigation
- Recoupment/Repayment

Examples of **provider/program violations** include, but are not limited to:

- Failure to accurately verify child attendance through ECC provider web portal.
- Failure to comply with all of the E-Child Care terms and conditions as set forth by the E-Child Care Parent/Provider Responsibilities and Agreement.
- Failure to comply with the child care service agreement.

Examples of **provider/program fraud** include, but are not limited to:

- Falsification of a license/certificate and/or altering licensing/certificate information
- Falsification of any documentation (parent signatures, attendance, ECC logs, etc.)
- Omission or withholding information that impacts health and safety of the children (i.e. not reporting adverse change in facility/home environment)
- Any intentional time and attendance (ECC) infraction which leads to monetary gain
- Substantiated fraud, any component of fraud, or the illegal receipt of government funds from any governmental agency.
- Providing false or misleading information or statements on any forms
- Provider's child care license or certificate was denied or revoked for furnishing or making false or misleading statements or reports to the Office of Licensing (OOL) or the CCR&R pursuant to licensing regulations

Penalties:

Warning Notice (applicable only to ECC specific violations)

Any evidence of program violation involving ECC will result in a written warning notice (specific to ECC program violations), requiring submission of a time-phased corrective action plan from the provider/program. Recoupment/repayment may also be required. Note – cases of substantiated fraud will result in immediate disqualification without a written warning.

In addition, the below penalties will be enforced for any ECC violations following the above noted written warning:

First Violation (except fraud) – Three (3) month disqualification

Disqualification for three (3) months will apply when the first offense of a program violation is substantiated. CCR&Rs will issue notification of suspension outlining the following:

- Reason for suspension
- Length of suspension
- Terms & Conditions: Parents/applicants enrolled with the provider/program who receive child care subsidy will be required to select another provider or incur the cost if they choose to remain with the provider/program in suspension. CCR&Rs will be prohibited from making any new referrals to, or establishing agreements with, the suspended provider/program during the suspension.

Second Violation (except fraud) – Six (6) month disqualification

Disqualification for six (6) months will apply when the second offense of a program violation is substantiated. CCR&Rs will issue notification of suspension outlining the following:

- Reason for suspension
- Length of suspension
- Terms & Conditions: Parents enrolled in the program and receiving child care subsidy will be required to select another provider or incur the cost if they choose to remain with the provider/program in suspension. CCR&Rs will be prohibited from making any new referrals to, or establishing agreements with, the suspended provider/program during the suspension.

Third Violation or Fraud - Twelve (12) month disqualification and/or Debarment

Disqualification for twelve (12) months will apply when the third offense of a program violation is substantiated or fraud has been substantiated against a provider/program. CCR&Rs will issue notification of disqualification outlining the following:

- Reason for disqualification or fraudulent activity
- Length of suspension
- Terms & Conditions: Parents enrolled in the program and receiving child care subsidy will be required to select another provider or incur the cost if they choose to remain with the provider/program in suspension. CCR&Rs will be prohibited from making any new referrals to, or establishing agreements with, the suspended provider/program during the suspension.

Provider/Program Disqualification and Notification

IMPORTANT NOTE: Providers must be informed in writing at least 10 days prior to an adverse action.

- (a) Any provider who has been disqualified shall be sent written notice regarding the disqualification as follows:

- (1) The notice shall be sent via certified mail to the provider informing him/her of the date the disqualification shall be effective.
 - (2) The notice shall include the reason(s) for the disqualification.
 - (3) The notice shall indicate probable recoupment/recovery of money.
 - (4) The notice shall include information about the provider's right to appeal the disqualification in accordance with DFD adverse action procedures.
- (b) The effective date of the disqualification shall be either:
- (1) The effective date shown in the disqualification notice as described in (c)(1);
- or
- (2) If an appeal has been requested and the hearing officer upholds the decision by DFD, the date the hearing decision has been rendered.

Parent Notification

Any parent, caretaker relative or legal guardian eligible under the Child Care Services Manual (N.J.A.C 10:15) for child care services, who is utilizing the child care services of a provider who has been disqualified by DHS/DFD shall be notified via mail that:

- (1) The provider does not meet the minimum requirements to operate as a child care provider
- (2) DHS/DFD shall deny child care payment to the provider
- (3) DHS/DFD advises that other child care arrangements be made and recommends the parent, caretaker or legal guardian contacts the county CCR&R.

*** Please note, the aforementioned language applies except as otherwise noted in N.J.A.C. 10:84-2.1(d) detailing Exclusion From Contract Participation in the New Jersey Department of Human Services, Division of Family Development Programs, Pilot Projects or Initiatives (Suspension, Debarment, and Disqualification).

Case/File Management

All disqualification documentation must be maintained in the Provider file and follow the providers without regard to the creation of new files and cases.

APPEAL PROCEDURES:

It is the right of every provider who receives a disqualification notice from the CCR&R to request a review of his/her case by the CCR&R and/or DFD. The CCR&R must inform the provider of his/her right to request a review. A timely request must be made within 10 days of the date of the disqualification notice. See attached information on appeal rights.

If an Appeal is requested

1. The provider may or may not receive child care payments during an appeal. The decision will be on a case-by-case basis and determined by DFD. However, if the disqualification decision is upheld by the DFD hearing officer or applicable appeals procedure, the provider shall repay any overpayment.
2. If the DFD hearing officer or applicable appeals procedure finds in favor of the provider, then the disqualification shall be lifted, from the date of the final

decision, and if the payment is owed, the provider would be paid for services rendered.

FISCAL

Provider Repayments:

All provider repayments should be entered by the CCR&R as adjustments in EPPIC. Detailed notes should be included in the appropriate section of the adjustment screen. CCR&Rs should monitor the recovery to ensure that full repayment is made. Any changes in the provider status that prevent the repayment, or for those providers who are no longer active in EPPIC, should be immediately communicated to DFD for appropriate follow-up collection action.

TRAINING

DFD will continuously meet with the CCR&R to review and discuss policy, as well as provide ongoing technical assistance to the Policy staff within the CCR&R to ensure the policy is clear.

REPORTING

The CCR&R shall monitor and track all providers who have been either disqualified or terminated as a result of program violation and submit quarterly reports to the DFD child care specialist and report designee.

Sincerely,

SIGNED

Jeanette Page-Hawkins
Director

JPH:AKS:MM

CC:

Dr. Allison Blake, Commissioner
Department of Children and Families