

Community Bridges CACFP Program

Community Bridges CACFP Serious Deficiency Process for Day Care Homes

The following is the serious deficiency process which all food programs abide by due to regulation 7 CFR 226.16 (l).

1. Determination of Serious Deficiency-226.16(l)(1) Occurrence of one or more of the following determines a provider's serious deficient determination.
List of Serious Deficiencies 226.16(l)(2):
 - a. Submission of false information on the application (Community Bridges/Provider Agreement) – 7 CFR 226.16(l)(2)(i).
 - b. Submission of false claims for reimbursement – 7 CFR 226.16(l)(2)(ii).
 - c. Simultaneous participation under more than one sponsoring organization – 7 CFR 226.16(l)(2)(iii).
 - d. Non-compliance with the program meal pattern – 7 CFR 226.16(l)(2)(iv).
 - e. Failure to keep required records – 7 CFR 226.16(l)(2)(v).
 - f. Conduct or conditions that threaten the health or safety of the children in care, or the public health or safety – 7 CFR 226.16(l)(2)(vi).
 - g. A determination that the provider has been convicted of any activity that occurred during the past seven years and that indicated a lack of business integrity. A lack of business integrity includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating concealment of such a conviction. – 7 CFR 226.16(l)(2)(vii).
 - h. Failure to participate in training – 7 CFR 226.16(l)(2)(viii); or
 - i. Any other circumstance related to nonperformance under Community Bridges/provider agreement as specified by Community Bridges or the state agency. This may include, but not be limited to, continuous submission of late/or incomplete claims for reimbursement, failure to comply with civil rights laws, and failure to attend required training – 7 CFR 226.16(l)(2)(ix).

2. Serious Deficiency Notice 226.16(l)(3)- Community Bridges will identify the serious deficiency and how it can be corrected. Each individual situation will have its own specific circumstances which will influence the corrective action defined for the provider.
 - a. Serious deficiency- In accordance with 7 CFR 226.16(l)(3)(i), the provider will be notified that they have been found to be seriously deficient. The notice will specify:
 - i. The serious deficiency(ies).
 - ii. The action needed to correct the deficiencies;
 - iii. The time given for the corrective action (as soon as possible, but not to exceed 30 days).
 - iv. The provider will not be able to appeal the serious deficiency determination.
 - v. Failure to correct the serious deficiency(ies) fully and permanently will result in proposed termination of the home CACFP agreement and the disqualification of the daycare home and its principles.
 - vi. That a day care homes' voluntarily quitting or terminating its agreement with the sponsor after having been notified that it is seriously deficient will still result in the day care homes' formal termination and placement on the National disqualified list.

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3. Corrective Action –
 - a. Community Bridges will define the time in which a provider must correct the deficiency – each deficiency will have a different time line.
 - b. If the provider corrects the serious deficiency(ies) within the allotted time and to the sponsor's satisfaction, the sponsor will rescind its serious deficiency determination 226.16(l)(3)(ii).
 - c. If the deficiencies are not fully and permanently corrected, Community Bridges will propose to terminate the provider's participation on the CACFP and will propose to disqualify the provider from future CACFP participation.

4. Notice of Intent to Terminate the Agreement 226.16(l)((3)(iii).
 - a. If the provider fails to correct the deficiency fully and permanently Community Bridges will issue an intent to terminate and disqualify notice indicating:
 - i. The right to appeal the proposed termination and disqualification.
 - ii. The provider may continue to submit claims for reimbursement until a final decision is rendered by the hearing official. Or, if no appeal request is submitted, through the appeal request deadline. Community Bridges will only reimburse meals which are eligible and valid.
 - iii. If the hearing official upholds Community Bridges Food Program determination to terminate, the provider will be placed n the National disqualified list for up to 7 years or longer if a debt remains unpaid.

5. Administrative Review – The administrative review (appeal process) is as follows:
 - a. Community Bridges will notify the provider in writing of its intent to terminate and disqualify and of the appeal rights.
 - b. A provider may retain legal counsel, or may be represented by another person.
 - c. If the provider chooses to appeal the proposed termination and disqualification, she/he shall have no more than 7 calendar days from receipt of the proposed termination and disqualification notice to submit a written request for an administrative review. The appeal will go to Community Bridges hearing official who will review the provider programmatic file and the documents submitted.

After reviewing all documents the hearing official will render a decision. This decision is a final decision. If the provider wins the appeal, a letter will be sent rescinding the serious deficient determination and the proposed termination and disqualification actions. If the hearing official upholds the proposed termination and disqualification actions, the provider will be terminated and disqualified effective the date the hearing officer issues the decision.

6. Suspension of a day care home – In accordance with 226.16(l)(4), if a provider's participation is suspended for a public health or safety violation or for engaging in activities that threaten the health or safety of participants, Community Bridges will send a Notice of Suspension, Serious Deficiency, and Proposed Termination and Disqualification to the provider. In accordance with 226.16(l)(4)(ii), the notice must:
 - a. Specify the serious deficiency and opportunity for an appeal hearing of the proposed termination and disqualification.
 - b. State that the day care home participation has been suspended.
 - c. The voluntary termination after receiving the Notice of Intent to Terminate will result in the provider being placed on the National Disqualified List.
 - d. The provider's program participation will remain suspended until the appeal process is concluded.
 - e. Inform the provider that if the administrative review official overturns the suspension, the day care home may claim reimbursement for eligible meals served during the suspension.

Provider Signature

Date

Program Consultant

Date