

I. CHAPTER OVERVIEW

This chapter describes the situations in which parents and providers have the right to [appeal](#) decisions made by the local purchasing agency (LPA) and how to schedule a [hearing](#). Parents may appeal the termination or denial of child care services. Providers may appeal decisions by the LPA with regard to the termination or denial of their participation in the Subsidized Child Care (SCC) Program or with regard to the recoupment of overpayments to providers.

II. PARENTAL APPEALS

If an applicant or recipient disagrees with a decision made by the LPA about her child care assistance regarding denial of subsidy services, a change in fees, termination of payment or sanctions related to fraud, she has the right to appeal the decision and to request and receive a hearing. The applicant or recipient cannot appeal the termination or denial of a specific child care provider. The Application for Child Care Services ([DCD-0456](#)), Child Care Voucher ([DCD-0446](#)), and Child Care Action Notice ([DCD-0450](#)) contain information that advises the individual of this right to appeal, of the procedures to follow, and documents that the information was provided to the individual.

To request a local hearing, the individual must contact the child care social worker of the county department of social services (DSS) or the LPA. Requests orally or in writing can be made within 60 calendar days after the effective date of the action taken. The 60 calendar days begins on the day following the date of the action. If the sixtieth day falls on a non-workday, the parent has until the end of the next workday to request a hearing. Failure to notify the child care social worker before the end of the sixtieth day constitutes a waiver of the individual's right to a hearing; however, the individual may reapply for child care services if services were terminated.

If a request is received within 60 days, a local hearing is then scheduled with an official of the LPA. This hearing is held within five (5) calendar days (except agency observed holidays) of the individual's request, unless the individual postpones it for good reason. Good cause to delay the hearing includes illness or death in the family of the person requesting the appeal, the inability to secure transportation, the inability to obtain representation, or the individual has a conflict with the scheduled date. The hearing may be delayed up to ten (10) additional calendar days; however, a local hearing may not be held more than 15 calendar days after a request for a hearing is received.

The procedures for conducting the local hearing are described in the Local Appeal Hearing Officer's Handbook. A copy of the handbook can be obtained by contacting the Division of Social Services Local Hearing and Appeals Section at 919-733-3289. The individual has the right to review material which will be used at the hearing and has the right to access her child care record. In addition, she

has the right to have a relative, friend, or attorney represent her at the hearing. (Written consent must be obtained from the individual to release information contained in the family's child care record to any person representing the individual at the hearing.)

If the individual is dissatisfied with the decision made at the local hearing, she has the right to request, within 15 calendar days of the receipt of the local decision, a state level hearing with an official from the Division of Social Services, Hearing and Appeals Section. The hearing officer designated to handle the hearing will give reasonable notice to the individual and the LPA of the time and place of the hearing. This hearing may be postponed for good cause, but postponement may not exceed 30 calendar days. As in the local hearing, the individual has the right to review material, have access to her child care record, and have representation.

If the individual is not satisfied with the final decision following the state hearing, she may, within 30 calendar days of the receipt of the decision, file a petition for judicial review in Superior Court.

If payments were terminated or changed for any reason other **than lack of SCC funds**, the individual may continue to receive child care until the local hearing decision is made. If the hearing officer's ruling supports the denial or termination of services, the individual will be required to repay the cost of the child care subsidies received during this period. The individual may waive this right to continue to receive the service until the outcome of the hearing is determined. If the hearing decision is in the recipient's favor, the recipient will receive retroactive benefits to cover the benefits that were missed.

It is essential that the child care social worker or their agency designee thoroughly document the request for the hearing(s), any waiver of rights, and the decisions made at the hearing(s).

III. PROVIDER APPEALS

A. Licensed Providers

The provider can appeal an action taken by the LPA to:

1. Sanction the provider;
2. Fail to approve the provider for participation in the SCC Program;
3. Terminate the provider's participation in the SCC Program: or
4. Determine that the provider was overpaid.

All providers should be informed of their right to appeal during the approval process.

A provider wishing to contest an action must request an initial review with the local purchasing agency within 30 calendar days of effective date of the local purchasing agency action. The local purchasing agency must make a determination on the initial review within ten (10) calendar days of the request for an initial review.

If a provider chooses to appeal an action taken by the LPA, the provider must contact the child care worker within 30 calendar days of the effective date of the determination on the initial review to request a local appeal hearing. The hearing must be held within five (5) calendar days of when the request is received. If the provider submits a written request for a delay, the LPA may delay the hearing for an additional ten (10) calendar days. The local appeal hearing cannot be held more than 15 calendar days after receiving the request.

The local purchasing agency is required to serve the provider a written statement of decision within ten (10) calendar days following the local hearing. The statement must include the facts and conclusions which support the determination by the LPA and instructions for appealing the decision.

If the provider is not satisfied with the LPAs decision, an appeal to DCDEE's Subsidy Services Appeals Panel may be filed. The request for an appeal must be filed with the Panel within 15 calendar days of receipt of the written statement of decision from the LPA. The appeal must be filed by personal delivery, certified mail, or overnight express mail to the Subsidy Services Section Chief at:

Division of Child Development and Early Education

2201 Mail Service Center

Raleigh, North Carolina 27699-2201

Telephone: 919-662-4561

Fax Number: 919-662-3071

The Chief of the Subsidy Services Section of DCDEE notifies the LPA that an appeal has been filed. The LPA must send the Chief and the provider a copy of the LPA's final decision within five (5) days of the date of notification. Any signed agreements between the LPA and the individual and all supplementary documentation considered during the local appeals process must also be included. The Chief may request additional documentation.

The Subsidy Services Appeals Panel reviews all of the documentation submitted by the LPA to determine if the action taken was necessary. The provider and the LPA are notified in writing of the Panel's decision within twenty business days after the receipt of the appeal record. If the Panel lacks sufficient information to render a decision at the initial meeting, the decision

can be delayed. After the review is completed, the LPA will be directed to take an action or to refrain from taking an action.

If the provider is not satisfied with the decision of the Subsidy Services Appeals Panel, the provider can appeal to the Office of Administrative Hearings (OAH) by filing a petition (Form H-06 – Standard Petition) and certificate of service. This form may be accessed by contacting staff of the Clerk's Office of the Office of Administrative Hearings by telephone or downloading the form from their web site. (See telephone number and web address below.) The original form and copies must be mailed to OAH with a copy to the agency that is being petitioned (the LPA). The individual may mail or fax the petition. If the petition is faxed, the original and copy must be mailed within five (5) days of the faxed petition. The mailing address, fax number and web address for OAH is:

Office of Administrative Hearings

Clerks Office

6714 Mail Service Center

Raleigh, North Carolina 27699-6714

Telephone: 919-733-0926

Fax Number: 919-733-3478

Website: www.ncoah.com