

**256.046 ADMINISTRATIVE FRAUD DISQUALIFICATION HEARINGS.**

Subdivision 1. **Hearing authority.** A local agency must initiate an administrative fraud disqualification hearing for individuals accused of wrongfully obtaining assistance or intentional program violations, in lieu of a criminal action when it has not been pursued, in the Minnesota family investment program and any affiliated program to include the diversionary work program and the work participation cash benefit program, child care assistance programs, general assistance, family general assistance program formerly codified in section 256D.05, subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare except for children through age 18. The Department of Human Services, in lieu of a local agency, may initiate an administrative fraud disqualification hearing when the state agency is directly responsible for administration or investigation of the program for which benefits were wrongfully obtained. The hearing is subject to the requirements of sections 256.045 and 256.0451 and the requirements in Code of Federal Regulations, title 7, section 273.16.

Subd. 2. **Combined hearing.** The human services judge may combine a fair hearing and administrative fraud disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the individual receives prior notice that the hearings will be combined. If the administrative fraud disqualification hearing and fair hearing are combined, the time frames for administrative fraud disqualification hearings specified in Code of Federal Regulations, title 7, section 273.16, apply. If the individual accused of wrongfully obtaining assistance is charged under section 256.98 for the same act or acts which are the subject of the hearing, the individual may request that the hearing be delayed until the criminal charge is decided by the court or withdrawn.

Subd. 3. **Administrative disqualification of child care providers caring for children receiving child care assistance.** (a) The department or local agency shall pursue an administrative disqualification, if the child care provider is accused of committing an intentional program violation, in lieu of a criminal action when it has not been pursued. Intentional program violations include intentionally making false or misleading statements; intentionally misrepresenting, concealing, or withholding facts; and repeatedly and intentionally violating program regulations under chapters 119B and 245E. Intent may be proven by demonstrating a pattern of conduct that violates program rules under chapters 119B and 245E.

(b) To initiate an administrative disqualification, a local agency or the commissioner must mail written notice by certified mail to the provider against whom the action is being taken. Unless otherwise specified under chapter 119B or 245E or Minnesota Rules, chapter 3400, a local agency or the commissioner must mail the written notice at least 15 calendar days before the adverse action's effective date. The notice shall state (1) the factual basis for the agency's determination, (2) the action the agency intends to take, (3) the dollar amount of the monetary recovery or recoupment, if known, and (4) the provider's right to appeal the agency's proposed action.

(c) The provider may appeal an administrative disqualification by submitting a written request to the Department of Human Services, Appeals Division. A provider's request must be received by the Appeals Division no later than 30 days after the date a local agency or the commissioner mails the notice.

(d) The provider's appeal request must contain the following:

(1) each disputed item, the reason for the dispute, and, if applicable, an estimate of the dollar amount involved for each disputed item;

(2) the computation the provider believes to be correct, if applicable;

(3) the statute or rule relied on for each disputed item; and

(4) the name, address, and telephone number of the person at the provider's place of business with whom contact may be made regarding the appeal.

(e) On appeal, the issuing agency bears the burden of proof to demonstrate by a preponderance of the evidence that the provider committed an intentional program violation.

(f) The hearing is subject to the requirements of sections 256.045 and 256.0451. The human services judge may combine a fair hearing and administrative disqualification hearing into a single hearing if the factual issues arise out of the same or related circumstances and the provider receives prior notice that the hearings will be combined.

(g) A provider found to have committed an intentional program violation and is administratively disqualified shall be disqualified, for a period of three years for the first offense and permanently for any subsequent offense, from receiving any payments from any child care program under chapter 119B.

(h) Unless a timely and proper appeal made under this section is received by the department, the administrative determination of the department is final and binding.

**History:** 1992 c 513 art 8 s 10; 1997 c 85 art 4 s 12; art 5 s 6; 1Sp1997 c 5 s 13; 1999 c 159 s 40; 1999 c 205 art 1 s 52; 1Sp2003 c 14 art 9 s 31; art 12 s 3; 2004 c 288 art 4 s 25; 1Sp2005 c 4 art 8 s 10; 2008 c 286 art 1 s 2; 2010 c 301 art 1 s 1; 2013 c 107 art 1 s 9; 2016 c 158 art 2 s 63; 1Sp2019 c 9 art 2 s 106,107