

Notice of Initial Determination of Substantiated Child Maltreatment and Right to Request a Review

Use of form: This form will be used to finalize the child maltreatment initial determination. Personally identifiable information on the form will be used for identification purposes only.

Date of Notice of Initial Determination of Substantiated Child Maltreatment: January 30, 2015

X Smith
c/o XYZ County Jail
123 Address Ave.
City, State Zip Code

Dear X Smith:

Our agency has completed its investigation of suspected child maltreatment, i.e. child abuse and/or child neglect. Based on the definitions of child abuse and/or child neglect in Wisconsin Statutes (see Attachment A for more information regarding Wisconsin's legal definition), our agency has made an Initial Determination of Substantiated Child Maltreatment. Our agency has concluded as part of this investigation, that the following child or children were abused and/or neglected by you as follows:

You were substantiated for sexual abuse of Child Smith.

The basis for this determination is as follows: .

XYZ Wisconsin County investigated the reported incident. Information about the reported incident was gathered and analyzed. Such information included: interviews, observations, and medical records. The information gathered is credible and persuasive and meets the statutory definition of physical abuse listed in Wisconsin State Statute 48.02 (14g). At the conclusion of the investigation, it was determined the allegation of physical abuse to Child Smith is substantiated and you are the maltreater. Specifically, Child Smith sustained observable injuries to her face and arms while being physically disciplined with a cord. These injuries are documented in Nicole's medical record and were found to be caused by non-accidental means. Further, interviews conducted by XYZ Wisconsin County and law enforcement indicate you were the only individual to use this implement for the purpose of disciplining Child Smith.

Review of an Initial Determination of Substantiated Maltreatment

You may request a review of an Initial Determination of Substantiated Child Maltreatment. The review will be heard by an agency representative who was not involved in the investigation of initial determination that you abused and/or neglected the child or the children.

At this review, you can respond to any one or each (if multiple) Initial Determination of Substantiated Child Maltreatment. You can give your account of the incident(s) and provide written statements or documents that are relevant to whether you maltreated the child or children named above. You will not be permitted to present witnesses and will not have the right to question agency staff. You may hire an attorney to assist you in the review. For more information on this review process, see Wisconsin Administrative Code Section DCF40.03.

To request a review, complete the enclosed form, **Initial Determination of Substantiated Child Maltreatment Review Request**, and mail or hand deliver the fully completed form to the address of the agency as provided on the letterhead of this document above. The deadline to request a review is within fifteen (15) days after the date of this letter, i.e. the **Notice of Initial Determination of Substantiated Child Maltreatment and Right to Request a Review**. If you mail your fully completed **Initial Determination of Substantiated Child Maltreatment Review Request** form, it will be considered to be received by the agency as of the date of the postmark.

You do not have to request a review. The review process provides you with an opportunity to present information that you believe will help ensure the most accurate Final Determination of Substantiated Child Maltreatment(s) are established.

Final Determination of Substantiated Child Maltreatment

The agency is responsible for issuing the Final Determination of Substantiated Child Maltreatment for each of the substantiated allegations of child abuse and/or neglect listed above. If you request a review of any Initial Determination of Substantiated Child Maltreatment listed above, the agency will issue its final determination(s) after the review and will provide you with information regarding the date, time and location or call-in

Comment [TM1]: The field is pre-filled. This field cannot be updated on the template. The data can be corrected as follows: The field pre-fills with the name of the maltreater identified in the 'Substantiated Maltreater' field in the 'Review History' groupbox on the Assessment page. The name format will be First M. Last, Suffix.

Comment [TM2]: The field is pre-filled. This field cannot be updated on the template. The data can be corrected as follows: The field pre-fills with the name of the child identified as the alleged victim on the 'Allegations' tab of the 'Assessment' page.

information for the review. If you choose not to participate in an agency review that you requested, any Initial Determination of Substantiated Child Maltreatment will most likely result in a Final Determination of Substantiated Child Maltreatment. Whether or not you participate in a requested agency review, you may appeal the agency's Final Determination of Substantiated Child Maltreatment as described below.

If the agency does not receive a request to review the Initial Determination of Substantiated Child Maltreatment listed above within fifteen (15) days after the date of this letter or you do not participate in a scheduled review, the agency may make a Notice of Final Determination of Substantiated Child Maltreatment and will send you a notice of Final Determination of Child Maltreatment within five (5) days after the above deadline for requesting an agency review of the abuse/neglect initial determination has passed.

You may appeal a Final Determination of Substantiated Child Maltreatment by requesting a hearing before a neutral administrative law judge at the Wisconsin Division of Hearings and Appeals. At the hearing, you can present evidence that you did not abuse or neglect the child or children listed above. You will receive more information about the hearing process if you receive a Notice of a Final Determination of Substantiated Child Maltreatment as described above.

Any Final Determination of Substantiated Child Maltreatment May Affect Your Employment or Other Regulatory Approval under the Wisconsin Caregiver Law

The Wisconsin Caregiver Law requires caregiver background checks for people who have or are applying for certain employment, licenses, certifications, registrations, or contracts or a non-client residence that involves direct contact with children, vulnerable adults or patients in certain regulated caregiving settings or entities. Any Final Determination of Substantiated Child Maltreatment may bar you from these types of work and activities which require that you pass a Caregiver Law background check (see Attachment B for more information regarding Wisconsin's Caregiver Law).

If you request a hearing to appeal a Final Determination of Substantiated Child Maltreatment, for any Final Determination of Substantiated Child Maltreatment where the Division of Hearings and Appeals rules that you did not maltreat the child, the Final Determination of Substantiated Child Maltreatment will be removed, or unsubstantiated, by this agency and it will not prevent you from passing Wisconsin's Caregiver Law background check for the types of employment and other activities listed above.

If you have any questions about the review process, need translation services or need assistance to complete the attached form, please contact our agency's representative listed below.

Sincerely,

Agency Representative
c/o XYZ Agency
456 Additional Address Ave.
City, State Zip Code

Telephone Number: (XXX)XXX-XXXX

Unauthorized disclosure of the information contained in this notice is prohibited by law.

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SAMPLE

Initial Determination of Substantiated Child Maltreatment Review Request

Use of form: This form will be used to begin the process to review the child maltreatment initial determination. Personally identifiable information on the form will be used for identification purposes only.

Complete all of the requested information below.

Name - Person Requesting Review [Redacted]	Birthdate (mm/dd/yyyy) [Redacted]	Date of Request (mm/dd/yyyy)
Address (Street, City, State, Zip Code)		Telephone Number - Home

My reasons for disagreeing with this decision are as follows: (If additional space is needed, attach a separate sheet.)

NOTE: This form must be postmarked or hand delivered to the following agency no later than [Redacted]

[Redacted]
Telephone Number: [Redacted]

Comment [TM3]: This field is pre-filled. This field cannot be updated on the template. The data can be corrected as follows: The field pre-fills with the name of the maltreater identified in the 'Substantiated Maltreater' field in the 'Review History' groupbox on the 'Assessment' page for the row from which the template was launched. The name format will be First M. Last, Suffix.

Comment [TM4]: This field is pre-filled. This field cannot be updated on the template. The data can be corrected as follows: The field pre-fills with the birthdate for the maltreater identified in the 'Substantiated Maltreater' field in the 'Review History' groupbox on the 'Assessment' page for the row from which the template was launched. The format will be: mm/dd/yyyy.

Comment [TM5]: This field is pre-filled. This field cannot be updated on the template. The data can be corrected as follows: The field pre-fills with the date that is calculated for the 'Response Due' field for the row in the 'Review History' groupbox of the 'Assessment' page associated with the template.

Comment [TM6]: The field is pre-filled. The data can be corrected as follows: The field pre-fills once upon initial creation of the template and then becomes user updatable. Pre-fill with the supervisor who approved the Initial Assessment from which this template is being launched.

Comment [TM7]: The field is pre-filled. The data can be corrected as follows: The field pre-fills once upon initial creation of the template and then becomes user updatable. Pre-fill with the Agency Address (mailing address) associated with the location of the supervisor who approved the Initial Assessment from which this template is being launched.

Comment [TM8]: The field is pre-filled. The data can be corrected as follows: The field pre-fills once upon initial creation of the template and then becomes user updatable. Pre-fill with the Agency Address (City, State Zip) associated with the location of the supervisor who approved the Initial Assessment from which this template is being launched.

Comment [TM9]: The field is pre-filled. The data can be corrected as follows: The field pre-fills once upon initial creation of the template and then becomes user updatable. Pre-fill with the Agency phone number associated with the location of the supervisor who approved the Initial Assessment from which this template is being launched.

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SAMPLE

Attachment A

Definitions of Child Abuse and Neglect Summary

Child Abuse is defined in Wisconsin Statutes Section 48.02(1) and (14g) to include:

- Some types of physical injury to a child, such as severe or frequent bruising, lacerations, burns, fractured bones, internal injuries, or great bodily harm not caused by an accident.
- Sexual intercourse or sexual contact with a child in violation of Wisconsin Statutes Sections 940.225, 948.02, 948.025, or 948.085.
- Sexual exploitation of a child in violation of Wisconsin Statutes Section 948.05.
- Permitting, allowing or encouraging prostitution by a child in violation of Wisconsin Statutes Section 944.30.
- Causing a child to view or listen to sexual activity for sexual arousal, gratification or to degrade the child in violation of Wisconsin Statutes Section 948.055.
- Exposure of genitals, pubic area or intimate parts involving a child for sexual arousal or gratification in violation of Wisconsin Statutes Section 948.10.
- Manufacturing methamphetamine in violation of Wisconsin Statutes Section 961.41 (1) (e) under any of the following circumstances:
 - With a child physically present during the manufacture.
 - In a child's home, on the premises of a child's home, or in a motor vehicle located on the premises of a child's home.
 - Under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child.
- Emotional damage of a child for which the child's parent, guardian or legal custodian has neglected, refused or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms.

Child Neglect is defined in Wisconsin Statutes Section 48.02(12g) to include:

Failure, refusal or inability on the part of a caregiver, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child.

SAM

Attachment B

Wisconsin Caregiver Law Background Check Summary

The Caregiver Law under Wisconsin Statutes Sections 48.685 and 50.065 requires background checks for people who have or apply for some types of Wisconsin employment, or Wisconsin licenses, certifications, registrations, contracts, or a non-client residence that involves regular, direct contact with children, vulnerable adults, or patients in certain regulated caregiving settings or entities. The owner or administrator of some entities may be subject to Caregiver Law background checks, whether or not the position includes regular, direct contact with clients.

Some of the regulated settings and entities under the Caregiver Law that require a background check for related caregiving activities include the following:

- Group child care, family child care, certified child care, child care contracted by school boards, child day camps
- Residential care centers for children and youth, shelter care facilities for children, child group homes, child foster homes, subsidized guardianship homes, interim caretaker homes, pre-adoptive homes
- Licensed child welfare agencies, licensed child placing agencies, organizations that facilitate parental delegations of children's care and custody
- Hospitals, medical clinics, nursing homes, hospices, home health agencies, personal care agencies, rural health clinics, outpatient rehabilitation, ambulance service providers
- Mental health treatment programs, emergency mental health services programs, mental health day treatment for children, AODA treatment programs
- Community support programs, community-based residential facilities, adult day care, adult family homes, adult group homes, residential care apartment complexes, assisted living facilities, developmental disability facilities
- Other settings and entities involving caregiving to children, vulnerable adults, or patients as provided under the Caregiver Law, Wisconsin Statute Sections 48.685 or 50.065

If you receive an agency Final Determination that you abused or neglected a child, you may be barred from license, certification, registration, employment, a contract, or non-client residence in these regulated settings or entities as provided under the Caregiver Law, unless one of the following occurs:

1. You request a hearing, and following the hearing, the Division of Hearings and Appeals rules that you did not abuse or neglect the child.
2. You request a Rehabilitation Review, and, following the review, you are approved for some or all of the caregiving activities subject to the Caregiver Law because you show that you are not likely to abuse or neglect anyone in the future and that people will remain safe with you and under your care.

Rehabilitation Review

A Rehabilitation Review is an opportunity for you to request approval for the type of caregiving that you want to do, despite a Final Determination that you abused or neglected a child that led to the bar under the Caregiver Law. The Rehabilitation Review allows you to present positive information about yourself to show that children, vulnerable adults, or patients would remain safe with you or under your care. A rehabilitation finding may deny any caregiver actions, approve all caregiver actions, or grant limited approval for some caregiver actions that would otherwise be barred by a Final Determination of child abuse or neglect under the Caregiver Law. For more information on Rehabilitation Reviews, refer to Wisconsin Statutes 48.685(5) and 50.065(5).

For more information on Rehabilitation Reviews, you may also contact:

Rehabilitation Review information for entities regulated by the Wisconsin Department of Health Services:

- DHS Office of Legal Counsel (608-266-8428)
- <http://www.dhs.wisconsin.gov/publications/p6/p63160.pdf>

Rehabilitation Review information for entities regulated by the Wisconsin Department of Children and Families:

- DCF Office of Legal Counsel (608-261-8671)
- http://www.dcf.wi.gov/rehab_review/process.htm