

Notice of Final Determination of Substantiated Child Maltreatment and Right to Request an Appeal

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 Final Determination of Substantiated Child Maltreatment: March 10, 2015

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

Dear X Smith:

As described in the **Notice of Initial Determination of Substantiated Child Maltreatment and Right to Request a Review** letter dated January 30, 2015 our agency concluded the following child or children were abused and/or neglected by you as follows:

You were substantiated for physical 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 Statue 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.

This letter provides the Final Determination of Substantiated Child Maltreatment for each Initial Determination of Substantiated Child Maltreatment listed above and provides you with information regarding how you can appeal a Final Determination of Substantiated Child Maltreatment.

Final Determination of Substantiated Child Maltreatment

Based on our agency's investigation and subsequent agency review, the following are the final results for each of the Initial Determination of Substantiated Child Maltreatment listed above:

Physical Abuse of Child Smith resulting in a Final Determination of Child Maltreatment of **substantiated**.

The reason for the final determination is as follows: On (date of Review hearing), XYZ Wisconsin County reviewed the initial determination in this case. During the review, there was no credible and persuasive information presented to overturn such a finding; therefore, it was determined that XYZ Wisconsin County affirms and upholds the decision to substantiate physical abuse to Child Smith and you remain the identified maltreater. This decision was made based on the fact that Child Smith was less than 18 years old at the time of the maltreatment, it resulted in maltreatment and was inflicted by non-accidental means, and meets the definition of physical injury outlined in 48.02 (g). Mr. Smith you have asserted that it was not your intent to injure Child Smith; rather, you were attempting to discipline her. Further, you have referenced the lack of criminal charges for the reported incident. Regardless of intent, bruises resulted due to corporal punishment and you remain the identified maltreater of physical abuse to Child Smith. Further Wisconsin State Statute 48.981 (3) (c) 4 indicates the level of proof required for a CPS worker to conclude child maltreatment occurred differs from the criminal burden of proof.

Right to Appeal a Final Determination of Substantiated Child Maltreatment

As described in the letter providing you with the **Notice of Initial Determination of Substantiated Child Maltreatment and Right to Request a Review**, you may request an appeal hearing at the Wisconsin Division of Hearings and Appeals for any Final Determination of Substantiated Child Maltreatment. At an appeal hearing, you may present relevant evidence, including written or documentary evidence, testimony, and may examine and cross-examine witnesses. You may have any attorney or other type of representative assist you at the appeals hearing.

To request an appeals hearing with the Division of Hearings and Appeals, fully complete the enclosed form, **Child Maltreatment Contested Case Hearing Request**, and mail, personally deliver, or fax the form as instructed on this form. The deadline to request an appeals hearing is

DCF-F-5038-E (N. 01/2015)

Comment [TM1]: The field is pre-filled. This field cannot be updated on the template. The data can be corrected as follows: The field prefills with today's date each time the document is launched until the associated Sent checkbox is selected. Once the Sent checkbox is selected, the field prefills the date the document was last launched.

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 maltreater identified in the 'Substantiated Maltreater' field in the 'No Response Received' groupbox on the 'Reviews' tab of the Assessment page.

Comment [TM3]: The field is pre-filled. This field cannot be updated on the template. The data can be corrected as follows: The field prefills with the current open street address from the Address records for the maltreater identified in the 'Substantiated Maltreater' field in the 'No Response Received' groupbox on the 'Reviews' tab of the Assessment page. The address will pre-fill from the person's current open Primary Residence address. If no open Primary Residence address exists for the person, then use the Secondary Residence address, followed by the Mailing address, followed by the Work address, and finally the Last Known address.

Comment [TM4]: 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 'No Response Received' groupbox on the 'Reviews' tab of the Assessment page. The name format will be First M. Last, Suffix.

Comment [TM5]: The field is pre-filled with the 'A/N Code' that was documented for the child identified as the alleged victim on the 'Allegations' tab of the 'Assessment' page.

Comment [TM6]: 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.

Comment [TM7]: 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 'A/N Code' that was documented for the child identified as the alleged victim on the 'Allegations' tab of the 'Assessment' page.

Comment [TM8]: 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.

Comment [TM9]: The field is a user entered text field.

within ten (10) days after the date of this letter, i.e. the **Notice of Final Determination of Substantiated Child Maltreatment and Right to Request an Appeal**.

- If you mail your fully completed **Child Maltreatment Contested Case Hearing Request** form, it will be considered to be filed with the Division of Hearing and Appeals as of the date of the postmark.
- If you provide your fully completed form by personal service, it shall be considered submitted on the date it is received by the division.
- If you submit the fully completed form via fax, it will be considered to be filed by the Division of Hearing and Appeals by the date that is imprinted by the division's fax machine; faxes received after midnight local time shall be deemed by the division to be filed on the first following business day.

The Division of Hearings and Appeals shall commence the hearing within 90 days after your hearing request is received, unless the hearing is rescheduled due to your request or the hearing is held in abeyance pending the outcome of related criminal proceedings or child protective services proceedings. The Division of Hearing and Appeals shall issue a final decision within 60 days after the close of a hearing. You may request a judicial review of the final hearing decision following the hearing as provided in Wisconsin Statutes Chapter 227.

You may be eligible to request that the Division of Hearings and Appeals expedite your appeal if you have, are currently applying for, or are in an academic program for certain types of caregiver employment, licenses, certifications, registrations, or contracts or activities in a regulated setting or entity subject to the Wisconsin Caregiver Law (see Attachment A for more information regarding expedited appeal hearings). If you meet the expedited appeal requirements and would like to request an expedited appeal, complete the related section in the **Child Maltreatment Contested Case Hearing Request** form.

A 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 regular, direct contact with children, vulnerable adults or patients in certain regulated caregiving settings or entities. A Final Determination of Substantiation of Child Maltreatment that you have abused or neglected a child may bar you from these types of employment and activities which require that you pass a Caregiver Law background check.

If you request a hearing to appeal a final determination and the Division of Hearings and Appeals rules that you did not abuse and/or neglect a child, the Final Determination of Substantiated Child Maltreatment associated with that allegation will be changed to an unsubstantiated finding by the agency that performed the investigation. This finding will not prevent you from passing a Caregiver Law background check for related types of employment and activities.

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 all caregiver activities, approve all caregiver activities or grant limited approval for some caregiving activities that would otherwise be barred by the *Final Determination* under the Caregiver Law.

See Attachment B to this letter for more information on Caregiver Law background checks for Final Determinations of Substantiated Child Maltreatment and Rehabilitation Reviews.

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.

Comment [TM10]: 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 Name associated with the location of the supervisor who approved the Initial Assessment from which this template is being launched.

Comment [TM11]: 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

Child Maltreatment Contested Case Hearing Request

Wisconsin Department of Administration Division of Hearing and Appeals

Use of form: This form will be used to begin the process to request a hearing to appeal a Final Determination of Substantiated Child Maltreatment. Personally identifiable information on the form will be used for identification purposes only.

Fully complete all of the requested information in the form below and deliver via personal service, mail, or fax, with a copy of the Notice of Final Determination of Substantiated Child Maltreatment letter, *within 10 days of the **Date of Final Determination of Substantiated Child Maltreatment Notice** date*, to the agency listed below:

Wisconsin Division of Hearing and Appeals
5005 University Avenue, Suite 201
Madison, WI 53705-5400

Fax Number: (608) 264-9885

Date of Notice of Final Determination of Substantiated Child Maltreatment and Right to Request an Appeal Letter: _____

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

You may request your appeal to be expedited if any of the following apply: (You must provide documentation that you qualify for an expedited review if you answer Yes to any of the questions below)

☐ Yes ☐ No Do you currently hold a license / certification, have applied for, or plan to apply for a license / certification to provide care to nursing home patients, other patients of a medical care facility, childcare, or foster care?

☐ Yes ☐ No Are you currently employed or contract with, or are actively seeking employment with any facility that provides direct care to patients (such as a nursing home), licensed childcare facility, group home, residential care center, or foster care?

☐ Yes ☐ No Are you enrolled in an academic program that may lead to a license/certification for employment or contract position that would be subject to the child abuse/neglect record check requirements for purposes of employment?

☐ Yes ☐ No Will you be represented by an attorney at this hearing?

☐ Yes ☐ No Do you expect to bring witnesses to testify?

If YES: Witness Name(s): _____ Witness Address(es): _____

**NOTE: Providing this information does not commit you to this decision or participation of any specific witness(s). You may change this decision at any time prior to the hearing*

I am requesting an administrative hearing to appeal a Final Determination of Substantiated Child Maltreatment that identified me as having abused and/or neglected one or more children based on a child protective service agency's investigation of suspected child maltreatment. My reasons for disagreeing with the decision(s) are as follows: (If additional space is needed, attach a separate sheet.)

Comment [TM12]: This field is pre-filled. This field cannot be updated on the template. The data can be corrected as follows: The field prefills with today's date each time the document is launched until the associated Sent checkbox is selected. Once the Sent checkbox is selected, the field prefills the date the document was last launched.

Comment [TM13]: 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 id (... [1])

Comment [TM14]: This field is pre-filled. This field cannot be updated on the template. The data can be corrected as follows: (... [2])

Comment [TM15]: This field is blank on the template. Client will fill out outside of eWISACWIS.

Comment [TM16]: This field is blank on the template. Client will fill out outside of eWISACWIS.

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SAMPLE

Attachment A

Expedited Appeals Summary

You may request an expedited appeal of your Final Determination if you have or will be applying for certain types of caregiver employment, caregiver licenses, certifications, registrations, contracts, or certain activities in a regulated setting or entity subject to Wisconsin Caregiver Law background checks under Wisconsin Statutes Sections 48.685 or 50.065. An expedited appeal may allow you to remove a bar to employment or regulatory approval under the Wisconsin Caregiver Law due to your Final Determination of Substantiated Child Maltreatment sooner.

Expedited Appeal Requirements:

- You currently have, or have applied for, a license or certification that may be revoked or denied as provided under Wisconsin Statute Section 48.685 or 50.065, Stats.
- You are currently employed by or contract with, or you are actively engaged in seeking employment or a contract with, an entity for duties subject to the record check requirements under Wisconsin Statute Section 48.685 or 50.065, Stats.
- You are enrolled in an academic program that leads to a license, certification, or employment or a contract position that will be subject to the record check requirements under Wisconsin Statute Section 48.685 or 50.065, Stats., *and you are expected to complete the academic program within 150 days after the date of your request* for a Final Determination hearing with the Division of Hearings and Appeals.

If you meet the requirements for an expedited appeal, the Division of Hearings and Appeals will provide an expedited hearing and decision as soon as practicable.

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

This field is pre-filled. This field cannot be updated on the template.

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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 'No Response Received' groupbox on 'Reviews' tab of the 'Assessment' page for the row from which the template was launched. The format will be: mm/dd/yyyy.