

Child Protective Services (CPS) Appeals FAQ
Version 3- January 2017

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Minor Maltreater

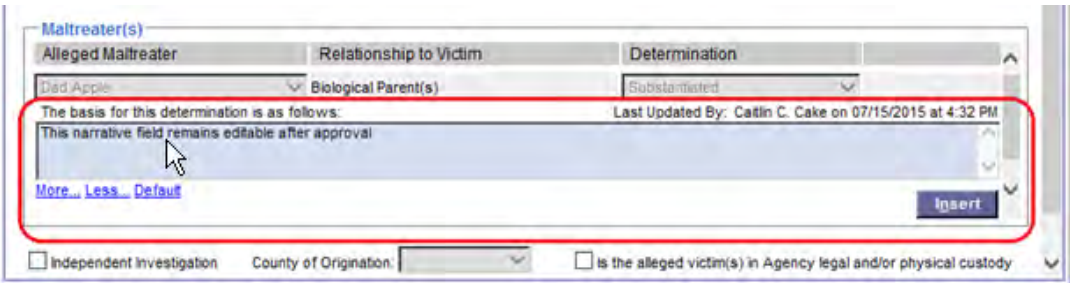
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<p>Timelines, documents and case status</p>	<p>1 Maltreater’s address.</p> <p><i>The template in the eWiSACWIS system will populate the notice with the maltreater’s address as it is recorded in his or her Person Management page. It is extremely important that the address in the system is accurate as it cannot be changed in the template. A hyperlink to the person management record has been added to the Review page to allow for easier updating of addresses.</i></p> <p>When the maltreater is incarcerated at the time of substantiation, it is best to send the Notice of Initial Determination to both the jail they are currently at and their last known home address. This will better ensure that the maltreater receives the notice if released from jail between the time the notice was sent and when it is delivered.</p> <p>If the maltreater’s address is unknown, agencies must make continuous efforts to locate the correct address. This may include utilizing the CARES system, contacting the appropriate child support, economic support, and WIC agency for information that may be available to you. It is not expected that agencies attempt to physically locate the maltreater.</p> <p><i>If a new address is identified for a maltreater after the issuance of an initial notice, the agency should check the “override” button in the eWiSACWIS appeals record, which will start the timeline over again. The maltreater has 15 days to respond once the notice is resent.</i></p>
	<p>2 Does the timeline include the mailing time, post mark date or other delivery related factors?</p> <p><i>Most timelines throughout the procedure are measured in reference to the action of the agency (date something is sent, date the meeting is held or decision made). In the example of the 15 day time period for a maltreater to request an agency review, a written request must be submitted within 15 days from the date the agency sent the Notice of Initial Determination.</i></p> <p><i>In regard to the request for a review or hearing, it is considered received on the date of the postmark. If the request is faxed, the date received is the date and time imprinted on the facsimile machine transmission report. If the request is personally delivered it is considered on the date received. These dates will automatically calculate in eWiSACWIS as information is entered and can be tracked both in an individual case record, as well as, the CPS Appeals Monitoring Report (SM06A114).</i></p> <p><i>Because the postmark date must be used for the date the request for a review is received via US Mail, it is recommended the agency wait a sufficient time between the date the request is due and the date the Notice of Final Determination is sent to allow for delivery. Some agencies have been sending the letter the same day as the due date, to find the letter is received a day or two later with the acceptable postmark date. The agency has five days from the date the letter is due to send the Notice of Final Determination. It is advisable to wait until the 4th or 5th day to allow for the mail delay.</i></p>

3	<p>Are times measured in business or calendar days? How do holidays affect the timelines?</p> <p><i>The Notice of an Initial Determination must be sent out within 1 BUSINESS day from the approval of the Initial Assessment (IA). <u>All other dates are calendar dates.</u> eWisACWIS will automatically calculate dates based on Federal mailing schedules. When calculating a certain number of days from the Begin Date to the End Date, if the End Date falls on a Sunday or a Federal Holiday then the End Date will be determined to be one day later. For example, if we are to calculate a date that is 15 days after the Begin Date of June 19, we would arrive at July 4, which is a Federal Holiday. The function would then add one day and the End Date would be calculated as July 5. Federal Holidays include New Year’s Day, MLK, Inauguration Day, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran’s Day, Thanksgiving, Christmas Day.</i></p>
4	<p>What happens to the status of the case between the time the IA is approved and the issuance of the Notice of Final Determination? Can we close the case?</p> <p><i>Yes, for those cases not continuing on into Ongoing Services, the case may be closed at the conclusion of the IA. As of the November 20, 2015 eWisACWIS release, cases can be closed while still allowing ticklers to be sent to the CAPTA Maltreater Review Coordinator designated for the case, and for agency personnel to enter data/review information for the case.</i></p>
5	<p>How can we track the steps involved in the process. Is there any directive or rule about who in the agency is responsible for sending or receiving the various notices, and/or scheduling agency reviews?</p> <p><i>No, the agency can decide who is responsible for these steps. As of the November 2015 eWisACWIS release, agencies can designate a CAPTA Maltreater Review Coordinator for each case. That person will then receive all ticklers related to the steps involved, allowing for more effective communication and coordination of the process. To designate a CAPTA Maltreater Review Coordinator, they must be identified as such on their worker record, then chosen as the designee for that case at the time of IA approval.</i></p>  <p><i>Additionally these dates and steps can be tracked using the CPS Appeals Monitoring Report (SM06A114). There is a webinar posted to the CPS Appeals website to assist in the use of this report. https://dcf.wisconsin.gov/cwportal/access-ia/appeal</i></p> <p><i>The June 2017 eWisACWIS Release provides historical tracking at both the agency and DHA’s levels.</i></p> <p><i>Also in June 2017, Agencies are no longer required to enter in the DHA orders/findings. This has been centralized and DCF will be entering that data into the eWisACWIS system.</i></p>

6	<p>Sending documents</p> <p><i>At a minimum notices must be sent by first class mail. Agencies may also choose to deliver the notices and describe in the case record that the maltreater received the notice.</i></p>
7	<p>Receiving documents</p> <p><i>Each template notice allows the agency to change the name and contact information of the agency personnel who is to receive the notice. Once a request for agency review is received, the agency must scan the request into the eWiSACWIS case record.</i></p> <p><i>*Note: if the agency contact information which pre-fills into each of the templates is incorrect, you can change what information prefills by making the request to the eWiSACWIS Help Desk.</i></p>
8	<p>Clarification of timelines and Initial/Final Determination Status:</p> <p><i>Once the Agency sends the Notice of Final Determination, the maltreater no longer has the right to an agency review, and must pursue a DHA appeal as their only recourse. If a maltreater requests an agency review at any time after the Final Determination has been sent, they must be provided a copy of their original Notice of Final Determination and updated DHA contact information, if applicable.</i></p> <p><i>An Initial Determination of substantiated maltreatment remains an "Initial Determination" until the Notice of Final Determination is sent. Once this occurs, status remains a "Final Determination" until and unless the DHA remands the matter back to the county for an agency review, at which time, the status becomes Initial. This is the only instance in which an agency can hold an agency review after the Notice of Final Determination has been sent.</i></p>
Initial Determination Notice	<p>9 Documentation of the 'basis for the initial determination' for the Notice of Initial Determination template.</p> <p>As of the February 2016 eWiSACWIS release, the basis for the initial determination will be documented in a new field on the Allegations tab of the IA and must be completed for each substantiated allegation prior to being sent for approval. The information in this field will prefill into the template AND will remain editable even after approval, until the "sent" box is checked on the Review tab indicating the Notice of Initial Determination has been sent. You will no longer be required to type into the templates in eWi after approval.</p> <p>Once the Notice of Initial Determination is sent and the field freezes, this section will also prefill into the Notice of Final Determination. You will not need to cut and paste this information from template to template.</p> 

10	<p>If the initial determination notice is returned with “wrong address” do we need to search out another address? If the social worker has another address to send the notice to, do we send it again and does this start the timelines all over again?</p> <p><i>The agency is responsible for continuous efforts to locate the maltreater’s accurate address and ensure the Notice of Initial Determination is sent to that address in a timely manner. If a new address is identified for a maltreater after the issuance of an initial notice, the agency should check the “override” button in the eWiSACWIS appeals record, which will start the timeline over again. The maltreater has 15 days to respond once the notice is resent.</i></p> <p><i>As the address for the maltreater will prefill based on the address in the maltreater’s Person Management page, it will be important for agencies to have the address up to date in the system at all times. At a minimum notices must be sent by first class mail. Agencies may also chose to deliver the notices and case note their receipt or agencies may otherwise provide verification in the case record that the maltreater received the notice as described above. A hyperlink to the person management record has been added to the Review page to allow for easier updating of addresses.</i></p>
11	<p>Can an Initial Determination be postponed pending the outcome of a CHIPS or criminal proceeding?</p> <p><i>No, the agency cannot hold any portion of the initial determination, agency review or final determination process in abeyance pending the outcome of a criminal or Ch. 48 matter. See the Legal Issues Regarding Appeals Notice, Timeliness, and Motion Practice for more information on this matter. You can locate it on the DCF website, https://dcf.wisconsin.gov/cwportal/access-ia/appeal</i></p>
12	<p>What if the maltreater requests a review, but it is past the 15 days after the Notice of Initial Determination was mailed? Does the agency provide a review in these instances?</p> <p><i>While the rule indicates the maltreater has 15 days to request a review, if the agency has not yet sent the Notice of Final Determination letter, the agency may choose to allow the maltreater the opportunity for an agency review.</i></p>
Agency Review	<p>13 Can an individual who took or screened the access report for the case later review the substantiation determination at an agency review?</p> <p><i>The rule specifies “No person who conducts the review of the initial determination may have had any prior involvement in the investigation or determination for the case that is being reviewed.”</i></p> <p><i>Most often the supervisors, whom are providing guidance to staff and making decisions in the investigation of the allegations on the case, would be excluded. A person who has not made decisions regarding the outcome of the case, such as safety determination, substantiation determination or case disposition, would be an appropriate member of a review panel.</i></p>

14	<p>How do we proceed if the request for an agency review comes from a person’s attorney, and not the maltreater?</p> <p><i>If the person’s attorney requests the agency review or records relating to the substantiation, the agency should consult with their corporation counsel and decisions related to the release of records should be guided by 48.981(7)(c). With a signed consent, records requests from an attorney should be honored; however, the Notices must still be mailed to the maltreater at minimum.</i></p>
15	<p>What information may be shared with the review panel or individual? What about confidentiality? Can the reviewer or review panel look at additional (new) information received during the agency review?</p> <p><i>Those reviewing the initial determination may have access to any information or documentation used in the initial determination decision. This includes eWiSACWIS documentation or 3rd party information such as doctor reports, or police reports. Chapter 48 allows for the release of information to individuals within the agency for specific purposes.</i></p> <p><i>If using someone outside the agency, the agency will want to consider use of confidentiality agreements. The reviewer or review panel will make a decision based on the CPS case record pertaining to the Initial Determination of Substantiated Child Maltreatment, as well as, any new information presented during the agency review.</i></p>
16	<p>Can the agency postpone the agency review pending the outcome of a CHIPS or criminal proceeding?</p> <p><i>NO, the agency cannot hold any portion of the initial determination, agency review or final determination process in abeyance pending the outcome of a criminal or Ch. 48 matter.</i></p> <p><i>CHIPS hearing should be held without delay, as this outcome has an immediate impact on child safety.</i></p>
17	<p>What requirement, if any, is there for recording/listing the maltreater’s evidence at the agency review?</p> <p><i>After the February 2016 eWiSACWIS release, the review tab and the review page will contain boxes that will allow for agencies to document any part of the process they may wish within the case record and without the need for creating case notes to do so. This can include returned letters, verbal requests for reviews, review information or other information pertaining to the process. There is no direction or requirement to use these narrative sections, but rather, they have been requested by a number of agencies who prefer to maintain records in the system.</i></p> <p><i>The rule does not require specific record keeping related to the agency review process, beyond the dates and findings made as part of an agency review. It is up to the agency to determine what and how to maintain records related to agency reviews and should consult their own legal counsel regarding how the agency’s interests should be represented in any Division of Hearings and Appeals (DHA) hearing.</i></p>

18 **What should happen if a parent/maltreater requests an agency review and then does not attend the review? Should we hold the review?**

The requirement for a review is tied to a request, not whether the person shows up. Wis. Adm. Code Section 40.04(1) says that within 10 days after the date of the review of the initial determination, the individual or panel conducting the review of the initial determination...shall make a final determination on whether the person...has abused or neglected a child. This language indicates a final determination would be made rather than a default determination. In some cases the reviewer could reach a different determination and that that is the purpose of a review. The November 2015 eWiSACWIS release updated the review outcome section to allow for documentation of the maltreater's appearance without defaulting the review status.

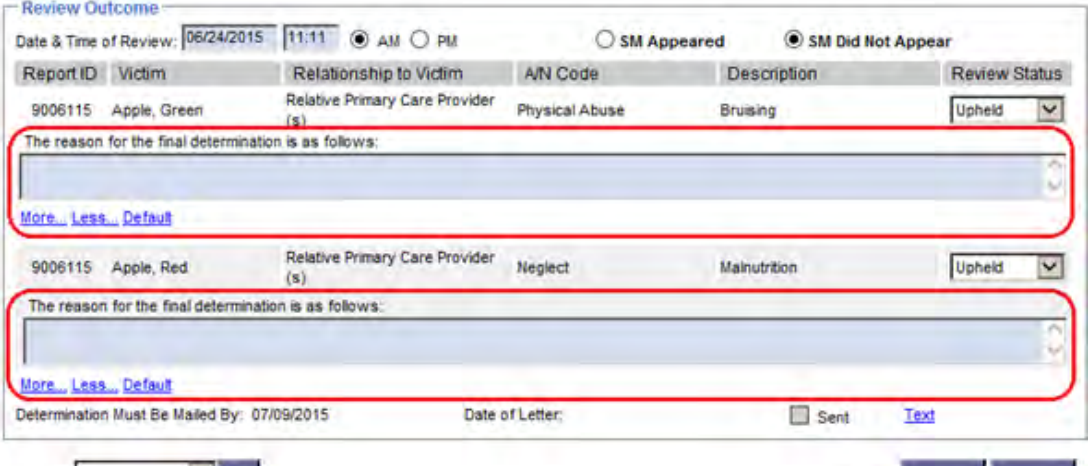
Report ID	Victim	Relationship to Victim	A/N Code	Description	Review Status
9019236	Apple, Green	Biological Parent(s)	Physical Abuse	Bruising	Overturned
9019236	Apple, Red	Biological Parent(s)	Neglect	Malnutrition	Pending

19 **I received a substantiation appeal request from a maltreater who is currently in jail on criminal charges related to the alleged abuse. He is asking for the review to be held after his court case is done and upon his release from jail. Am I allowed to honor his request in this new appeals process or must the review be held at the jail?**

The review may not be held in abeyance and the agency must conduct the review within the timeframes allowed by statute. The statute does not require a face to face review, and alternative means of completing a review can and should be utilized in this circumstance, such as a phone review or conducting the review at the jail. Wis. Adm. Code DCF 40.03(2)(h) does not allow witnesses at the review, so that may make the use of an alternative method more viable. If the maltreater wants to present documentary information that may need to be taken into account.

20 **When the maltreater is not a parent, what can be released? We are concerned the record gives information in regards to hospitalizations, diagnosis, medications, as well as family of origin issues.**

In general, Wisconsin Statute Section 48.981(1)(h)2. and (7)(a)1. says that a person suspected of child abuse or abuse or neglect in a CPS record may be given the CPS record but information that would identify the reporter must be redacted. That release provision applies whether or not the alleged maltreater is a family member. However, other confidentiality laws may require that some information in the CPS record be redacted, for example, mental health or AODA information that is confidential under Wisconsin Statute Section 51.30 and federal regulations such as 42 C.F.R. Part 2, medical information that may be confidential under Wisconsin Statute 146.82, or HIPPA, or educational records that may be confidential under Wisconsin Statute Section 118.125 or federal law. Applicability to case specific records should be discussed with your corporation counsel.

Final Determination Notice	<p>21 Documentation of the ‘basis for the final determination’ for the Notice of Final Determination template.</p> <p>As of the February 2016 eWiSACWIS release, the basis for the final determination will be documented in a new field on the Review tab of the IA and must be completed for each substantiated allegation. The information in this field will prefill into the template AND will remain editable until the “sent” box is checked indicating the Notice of Final Determination has been sent. You will no longer be required to type into the templates in eWi. Both fields for the basis for determinations will prefill into the Notices.</p> 
	<p>22 If the agency has sent the Notice of Final Determination and the maltreater requests a review stating they did not receive the Notice of Initial Determination, or the Final Determination comes back undeliverable, should the agency hold a review?</p> <p><i>No, once the agency has sent out the Notice of Final Determination, the maltreater is no longer eligible for an agency review. Their only recourse at that point is a DHA hearing, at which time, they may argue they did not receive the Initial Determination. The agency may also request the matter be returned to the county for an agency review. DHA will determine whether to hear the argument of no notice.</i></p>
	<p>23 If a person requests a DHA hearing after the agency review, is the county responsible for sending information to DHA?</p> <p><i>No, if a maltreater wants to request a DHA hearing, they should submit the form contained in the Notice of Final Determination of Substantiated Child Maltreatment and/or contact DHA. DHA will communicate with the agency about the hearing and when/how to submit additional information if required prior to the hearing.</i></p>
	<p>24 Can a Final Determination of Substantiated Child Maltreatment be postponed pending the outcome of a CHIPS or criminal proceeding?</p> <p><i>NO, the agency cannot hold any portion of the Initial determination, agency review or final determination process in abeyance pending the outcome of a criminal or Ch. 48 matter.</i></p>

DHA Appeals Hearing	<p>25 Is it anticipated that an agency attorney and any other agency staff appear wherever these DHA appeal hearings are held to represent the position of the agency? Where is it anticipated the DHA appeals will be held?</p> <p><i>Yes, the agency and agency staff who are able to provide testimony regarding the decision to substantiate in the particular maltreatment allegation being appealed, should be represented by legal counsel in the hearing. The DHA is currently working to implement the new rule and are working with agencies to address location and appearances for each case on an individual basis.</i></p>
	<p>26 If the case goes to DHA, are they responsible for entering the results into eWISACWIS?</p> <p><i>As of June 2017, DCF will be centralizing documentation of DHA findings. This will include the DHA Hearing Request and the DHA Findings/Orders.</i></p>
	<p>27 Can DHA postpone its hearing pending the outcome of a CHIPS or criminal proceeding?</p> <p><i>Yes, DHA may postpone the appeals hearing due to pending CHIPS or criminal proceedings and hold the hearing in abeyance.</i></p>
	<p>28 Can the defense attorney at a DHA hearing require a child victim testify? Are there guidelines or rules in regards to requiring psychological testing of the victim, deposition, testimony, etc.?</p> <p>A child may have to testify at a DHA hearing because of the rules against using hearsay at a hearing; however, legal counsel representing the agency can and should make a motion to allow hearsay in most cases. Hearsay is an oral or written statement of what a child or other person has said outside of the hearing. The reason for hearsay rules is a belief that hearsay is often unreliable. There are exceptions to the hearsay rules which sometimes allow the use of hearsay instead of a child or person’s testimony when there is corroborating evidence.</p> <p>There are other types of hearsay exceptions that may allow the use of hearsay in a hearing. There are legal arguments that can be made when other evidence corroborates the hearsay testimony and a motion by the agencies legal counsel is typically required. <i>If an objection is made to a victim being called to testify, the presiding administrative law judge determines whether a child victim must testify and whether there is corroborating evidence to support the hearsay testimony of others without the testimony of the child. In some cases, attorneys make motions to quash a subpoena for a child victim to testify on the basis of the harm it would cause and that the information can be obtained in some other way, perhaps through existing CPS or law enforcement records, corroborating evidence or prior interviews. Some proceedings rely on videotapes of the child being questioned for the CPS IA or a criminal investigation. In some cases depositions of the child are done with the attorneys before the DHA hearing so that information can be used at the hearing.</i></p> <p><i>It is very important to document the child’s disclosure verbatim and all collaborating evidence in the initial assessment so that the ALJ can easily access and utilize it in their decisions regarding hearsay in order to minimize the need for a child’s testimony.</i></p> <p><i>If the child does testify there may be arrangements made so the child does not need to see</i></p>

	<p><i>the other parties while waiting to testify, or the child may be allowed to testify remotely from another room by videotape, or have a service dog present to support the child victim when testifying. If law enforcement was involved with a criminal case, the child victim may be eligible to receive victim witness services and protections through the county victim witness program as provided under Wisconsin Statutes Chapter 950. The DHA may have some procedures that are used for child witnesses in CPS appeals or probation and parole revocations that DHA hears, so it may helpful to ask the DHA administrative law judge about ways to protect and support the child if the child does testify. Please consult with your legal counsel, as depending on the specific circumstances, different requirements may apply or other approaches may be possible.</i></p> <p><i>Additional resources relating to hearsay and other legal motions will be added to the CPS Appeals website as they become available. Please review the website for more detailed legal clarification/guidance.</i></p>
<p>Minor Maltreater</p>	<p>29 What are the review/appeals requirements when a minor is named as a maltreater?</p> <p><i>“It is generally inconsistent with CPS purposes under Ch. 48 to make a formal determination that a child is a maltreater. The juvenile justice system is generally the appropriate system for determining whether a child must be held accountable for abusing another child”</i> (2007 Child Protective Services Access and Initial Assessment Standards, Appendix 7, Considerations in Maltreater Determinations, page 119). <i>If the agency chooses, after careful consideration, to name a minor as the maltreater, the notices should be sent to the child, as well as, the child’s legal parent or guardian and foster parent(s) if applicable. Consideration should be made and documented for cases in which it may not be safe for the child or family if certain individuals receive notification, such as in the case of domestic violence or when a no contact order is in place.</i></p> <p><i>The child’s parents or guardians may be present for the agency review. The agency should also consider the role of the foster parent(s) in agency reviews, in terms of their ability to provide support to a child during the process. The decision regarding who would be allowed in the hearing is guided by 48.981(7)(a)-(c). And see particularly (7)(a)3m and 48.981(7)(a)4.</i></p> <p><i>To the minor maltreater, send the printed Notice of Initial Determination generated from eWiSACWIS.</i></p> <p><i>To the minor maltreater’s parents, send an exact copy of the printed Notice of Initial Determination generated from eWiSACWIS, meaning, make a copy of the notice generated for the maltreater, and mark it as a copy. Do not create a separate letter using the word documents. Include with the notice a cover letter explaining “this notice was sent to your child because...” Scan the cover letter and the copy of the Notice of Initial Determination that was sent to the parent(s). This process should be used with all Notices sent relating to this procedure, to include Notice of Scheduled Review, Notice of Rescheduled Review and Final Determination.</i></p> <p><i>Generally, the minor maltreater’s parent should accompany the child to the review; however the review can be conducted without the parent’s presence. Consultation with your agency counsel is recommended.</i></p>

30	<p>What should we do in cases when a maltreater dies during the IA or due process period?</p> <p><i>In these rare instances, the agency should document the maltreater’s date of death in the maltreater’s Person Management page. This will allow the agency to delete ticklers for the remaining review steps if they chose to do so. The agency may also chose to continue in the review process and should consult with their legal counsel in such cases.</i></p>
31	<p>Can my agency enter into a settlement agreement with the maltreater?</p> <p><i>No, There is no legal authority for the use of a settlement agreement that removes a CPS substantiation based on the maltreater meeting certain conditions required by the agency or the Corporation Counsel’s or District Attorney’s Office. The statutes and administrative rules require that if a CPS substantiation is made, and is not properly overturned during an initial review, a contested case proceeding or judicial review, the substantiation must be provided for caregiver background checks under Wis. Stats. §§ 48.685 and 50.065.</i></p> <p><i>Section 48.981(3)(c)5m. and Wis. Adm. Code § 40.04(1) require that a final determination be made on whether a maltreater has abused or neglected a child within 10 days of the date of the review of an initial CPS determination. Section 48.981(3)(c) and Wis. Adm. Code § 40.04(2) require that a final determination be made on whether a maltreater has abused or neglected a child within 15 days after the date of the notice of the initial determination if the malatreater does not request a review of the initial determination.</i></p> <p><i>Section 48.981(3)(c)5r. and Wis. Adm. Code § DCF 40.06 require that an agency must ensure that a final determination that a specific person has abused or neglected a child is available for background checks under ss. 48.685 and 50.065, Stats., within 15 days after the agency's final determination. They further require that if a contested case hearing under ch. 227, Stats., or judicial review overturns the agency's final determination that a specific person has abused or neglected a child, the agency shall update the information for background checks within 15 days after the decision.</i></p> <p><i>The intent and effect of these provisions is to require that if a substantiation is not overturned during the review or appeal proceedings that the maltreater must be barred from certain caregiver activities as provided under §§ 48.685 and 50.065. Those provisions include a specified rehabilitation review procedure under §§ 48.685(5) and 50.065(5) and Wis. Adm. Code chs. DCF 12 and DHS 12. Under these provisions, specified entities and agencies are authorized to determine that a maltreater has demonstrated according to those procedures that he or she has been rehabilitated to perform certain caregiver activities, but do not allow the removal of the maltreatment determination.</i></p> <p><i>These provisions do not authorize an agency or a District Attorney or Corporation Counsel to determine as they see fit that a maltreatment determination can be removed because they believe the maltreater is no longer abusing or neglecting a child after the prior abuse or neglect or that it’s unlikely the maltreater will abuse or neglect a child or other vulnerable person again.</i></p> <p><i>The Wisconsin Supreme Court has long recognized that ch. 48, Stats., provides a detailed statutory framework that carefully prescribes the authority of agencies, courts and officers of the courts:</i></p> <p><i>Ch. 48, Stats., the Children's Code, is a comprehensive legislative plan for dealing with</i></p>

children...It is a chapter of carefully spelled out definitions and enumerated powers. Court jurisdiction is spelled out in great detail...Procedures are carefully detailed...Eventual dispositions are enumerated, and legislative guidelines are carefully drawn to circumscribe judicial and administrative action.

*The chapter reflects the legislature's desire to specifically define the authority of appropriate officers. Where there is evidence of such enumeration, it is in accordance with accepted principles of statutory construction to apply the maxim, *expressio unius est exclusio alterius*; in short, if the legislature did not specifically confer a power, it is evidence of legislative intent not to permit the exercise of the power. State ex rel. Harris v. Larson, 64 Wis. 2d 521, 527 (1974). See also *In the Interest of Angel Lace M.*, 184 Wis. 2d 492, 512 (1994).*

These provisions do not authorize an agency or a District Attorney or Corporation Counsel to substitute their judgments via their own procedures for determining who is barred from regulated caregiver activities. Use of settlement agreements to circumvent these statutory protections for children and vulnerable adults may also create liability for any harm that may result.

32 The maltreater is refusing to provide us with a correct address. How should we proceed with sending letters?

Send the letters to the last known address in the system. The agency is responsible for continuous efforts to locate the correct address during the process. If/when the letter is returned, select box indicating the letters were "Returned as Undeliverable." You should do this, but follow the remaining timelines sending out the Final Determination as well. If the maltreater comes to you and requests a review at any point prior to the due date, you must click the override box and start the process over, providing the maltreater with the opportunity for a review.

If the maltreater comes back after you have sent the final determination, you should provide them a copy of their original final determination letter and their only recourse would be to go to DHA. DHA may remand it back to the agency for a review. Keeping a record of your attempts, and the issue of the maltreater "denying" where he/she lives, would be important should he/she later request a DHA hearing.

33 I have several requests for review but my agency is small and not enough staff available to hold a review that haven't made decisions on the case.

Small agencies seem to be experiencing this more frequently than larger counties. It is important to be collaborative amongst neighboring counties to develop of system of review that will accomplish the task at hand.

As a reminder, the only agency staff who be excluded from conducting an agency review would be one who made investigation or determination decisions on the case.

34	<p>If a maltreater participates in a Rehab Review, and is successful, is the substantiation finding to be removed from the record?</p> <p><i>No, if the maltreater participates in a Rehabilitation Review, and is successful, the substantiation finding remains. The Rehab Review process is to determine whether the maltreater has demonstrated they have been rehabilitated. Additional information regarding the Rehabilitation Review process can be found at https://dcf.wisconsin.gov/rehab-review</i></p>
35	<p>Quick Reference Guide for CPS Review/Appeals:</p> <p><i>Documenting a maltreater appeal: https://dcf.wisconsin.gov/files/ewisacwis-knowledge-web/quick-reference-guides/assessment/recording-viewing-and-voiding-maltreater-appeals.pdf</i></p> <p><i>Notification and Review Process for Substantiated Maltreaters: https://dcf.wisconsin.gov/files/ewisacwis-knowledge-web/quick-reference-guides/assessment/maltreater-reviews.pdf</i></p>
36	<p>The maltreater has previously been substantiated and/or convicted with a licensing barring offense, do I still need to hold the agency review?</p> <p>Yes, despite prior substantiations or convictions, the maltreater is still afforded due process as required by Wisconsin Statute Section 48.981(3)(c) and Wisconsin Administrative Code Chapter 40.</p>