



CPS Substantiation Appeals



WISCONSIN DEPARTMENT OF
CHILDREN AND FAMILIES



Purpose

Describe changes to Wisconsin's CPS Substantiation Appeals process :

- As affected by Wisconsin Statutes, Section 48.981 (3)(c) 5m
- The new policy supersedes:
 - DSP 2012-12
 - CFS 98-14

Effective January 1, 2015

Historical Context

- CAPTA
- Previous Policies:
 - CFS 98-14
 - DSP 2010-12
- Dupuy vs. Samuel



Overview

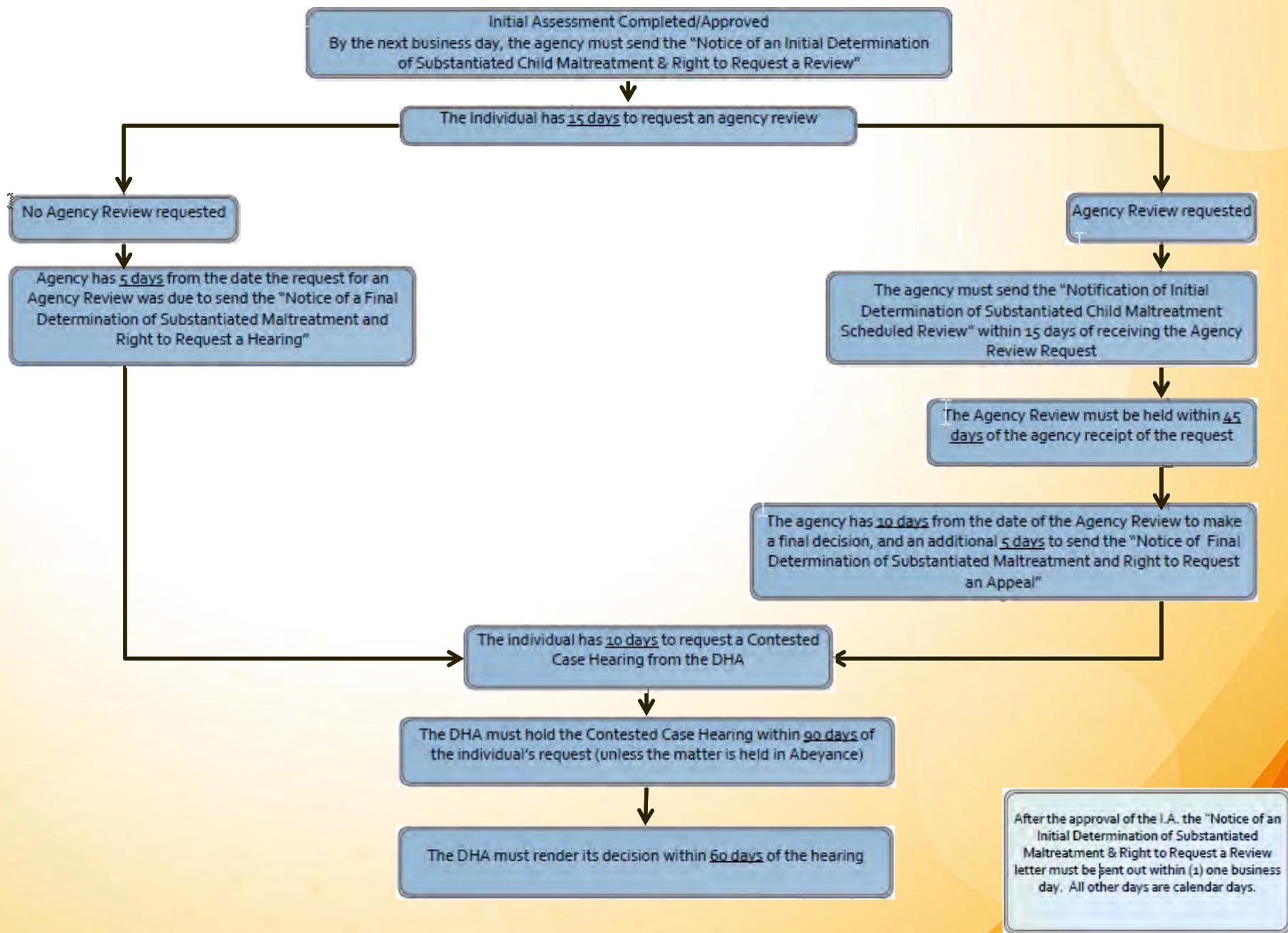
New Process

- Effective January 1, 2015
- eWiSACWIS enhancements
- Interim Process

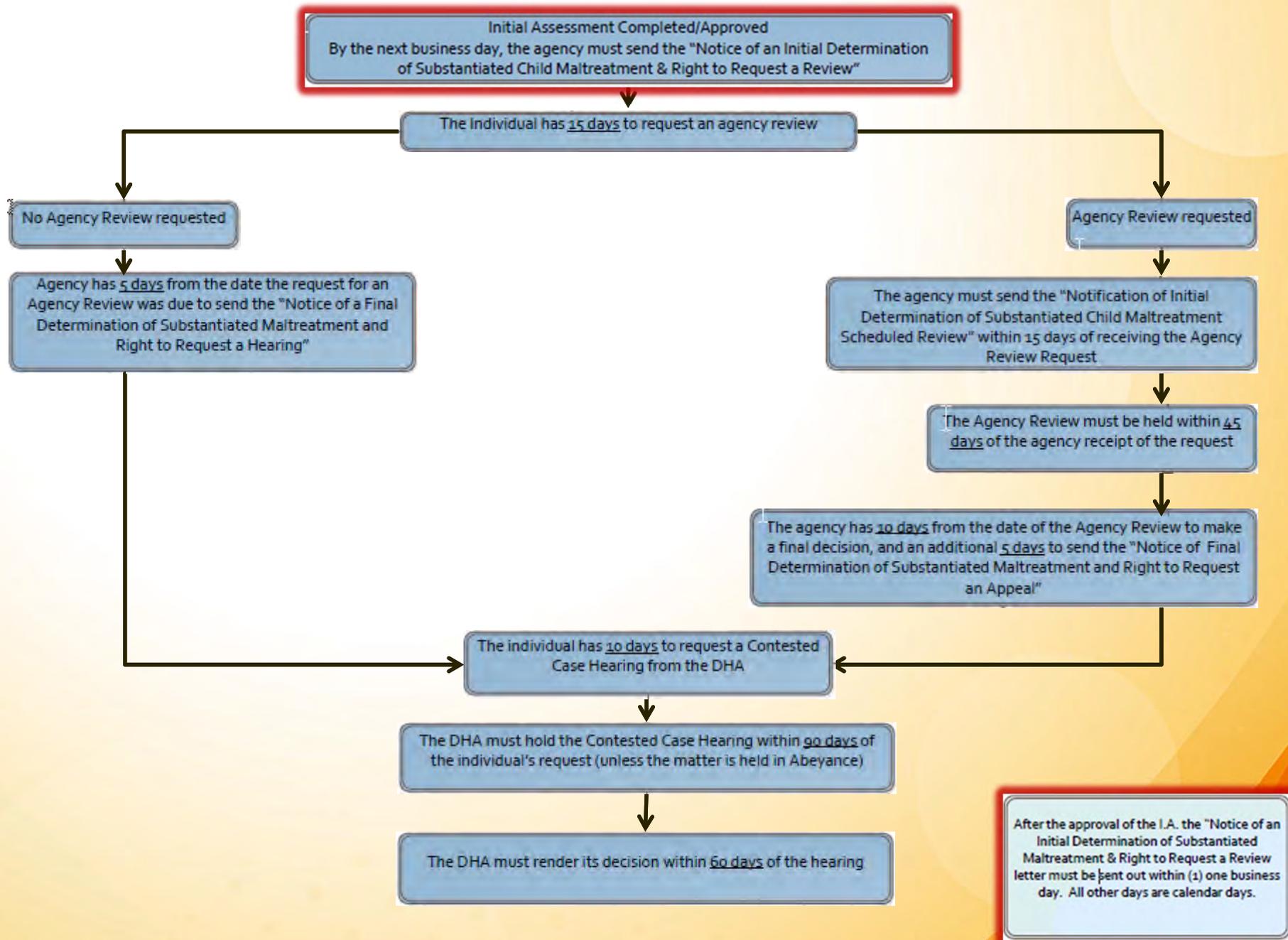
Let's Get Started...



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect *Notice of an Initial Determination of Substantiated Child Maltreatment and Right to Request a Review*

The letter may be created by the IA supervisor, worker, or person with a primary case assignment. Further ticklers will be assigned to the IA supervisor and person with primary case assignment.

The letter must include:

- Summary information of the Initial Substantiation Determination
- Agency Review Request information
- Division of Hearings and Appeals information
- Information on the effects of a Final Substantiation Determination

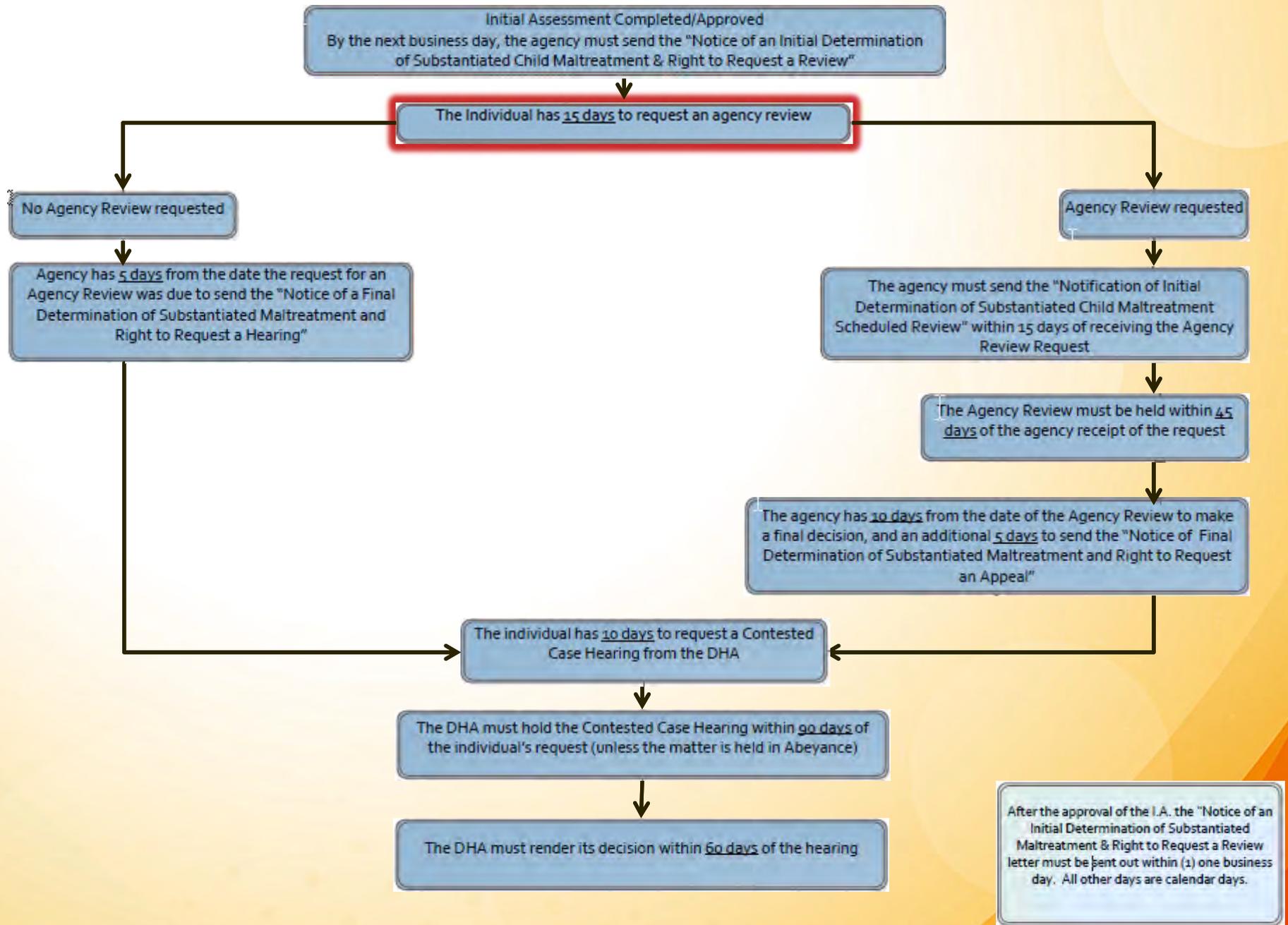
Timelines:

- The letter must be sent within one (1) business day of IA approval
- Note: All other dates required by the Appeals procedure are Calendar Days

Initial Assessment Completed/Approved
By the next business day, the agency must send the "Notice of an Initial Determination of Substantiated Child Maltreatment & Right to Request a Review"

After the approval of the I.A. the "Notice of an Initial Determination of Substantiated Maltreatment & Right to Request a Review" letter must be sent out within (1) one business day. All other days are calendar days.

Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

Request for Agency Review

- The *Notice of Initial Determination* letter contains a form the individual may use to request an Agency Review
- The individual may return the completed request to the agency, or
- The individual may request an Agency Review by phone, email, in-person, or other means



The Individual has 15 days to request an agency review

Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

The screenshot shows the eWiSACWIS web application interface. At the top, the browser address bar displays the URL: <http://fedaplv06/?sandid=0.826221659854892>. The application header includes the logo "eWiSACWIS" and navigation icons for Home, Print, Spell Check, and Help. Below the header, there are two tabs: "Assessment" and "Report". The "Assessment" tab is active, showing the following information: Name: Bird, Margo; Assessment ID: 9222098; Status: Open; Response Time: Within 5 business days; Date: 06/25/2014.

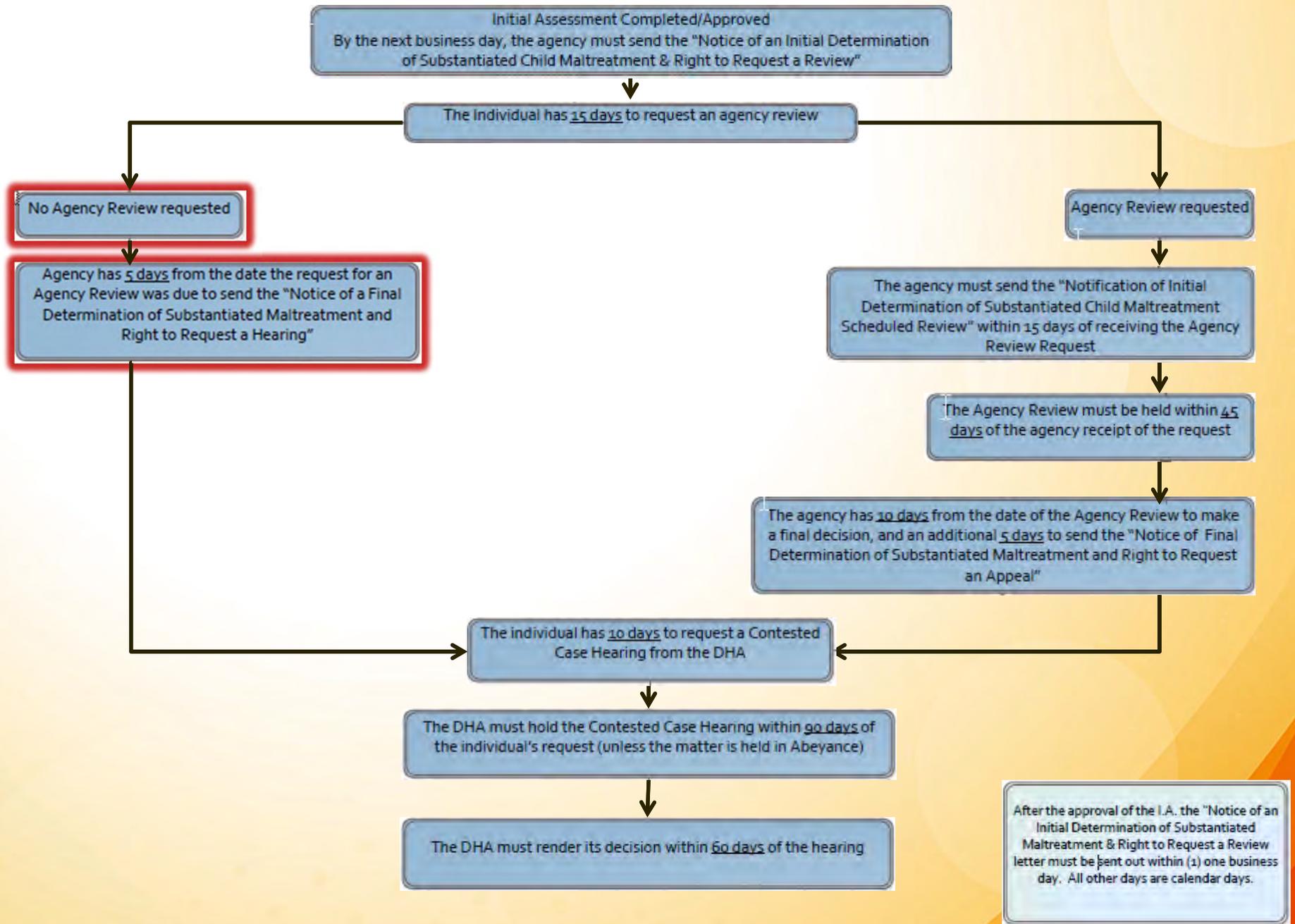
Below this information are several tabs: "Participants", "Basic", "Allegations", "Contacts", "Results", and "Reviews". The "Reviews" tab is selected, displaying a "Review History" table. The table has the following columns: Substantiated Maltreater, Assessment Approved, Notice To Be Mailed By, Sent, Date Sent, Response Due, Response Received, and Review Status. The data rows are as follows:

Substantiated Maltreater	Assessment Approved	Notice To Be Mailed By	Sent	Date Sent	Response Due	Response Received	Review Status
Margo Bird	06/26/2014	06/27/2014	<input checked="" type="checkbox"/>	06/26/2014 View	07/11/2014	00/00/0000	Awaiting Response
Larry Bird	06/26/2014	06/27/2014	<input type="checkbox"/>	00/00/0000 Text	00/00/0000	00/00/0000	

At the bottom right of the application window, there are "Save" and "Close" buttons. The browser status bar at the bottom indicates a zoom level of 100%.



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

Notice of a Final Determination of Substantiated Child Maltreatment and Right to Request a Hearing – No Agency Review requested

The letter must include:

- Summary information of the Final Substantiation Determination
- Information on appealing the Final Substantiation Determination to DHA

Timelines:

- The letter must be sent within five (5) calendar days from the date in which the Agency Request was due and not received
- As you enter your “notice” dates in eWiSACWIS, the system will automatically calculate additional dates



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

http://tedapl06/7?asid=0.826221659854892 - Assessment - Windows Internet Explorer

eWiSACWIS

Assessment: Name: Bird, Margo; Assessment ID: 9222098; Status: Open; Report: Response Time: Within 5 business days; Date: 06/26/2014.

Participants | Basic | Allegations | Contacts | Results | Reviews

Review History

Substantiated Maltreater	Assessment Approved	Notice To Be Mailed By	Sent	Date Sent	Response Due	Response Received	Review Status
Margo Bird	06/26/2014	06/27/2014	<input checked="" type="checkbox"/>	06/26/2014	View 07/11/2014	00/00/0000	No Response - Final
Larry Bird	06/26/2014	06/27/2014	<input checked="" type="checkbox"/>	06/26/2014	View 07/11/2014	00/00/0000	No Response - Final

No Response Received

The maltreater did not request a review of the initial determination within the designated timeframe per DCF Chapter 40.

Substantiated Maltreater	Determination To Be Mailed By	Sent	Date Sent	
Margo Bird	07/16/2014	<input type="checkbox"/>	07/14/2014	Text
Larry Bird	07/16/2014	<input type="checkbox"/>	07/14/2014	Text

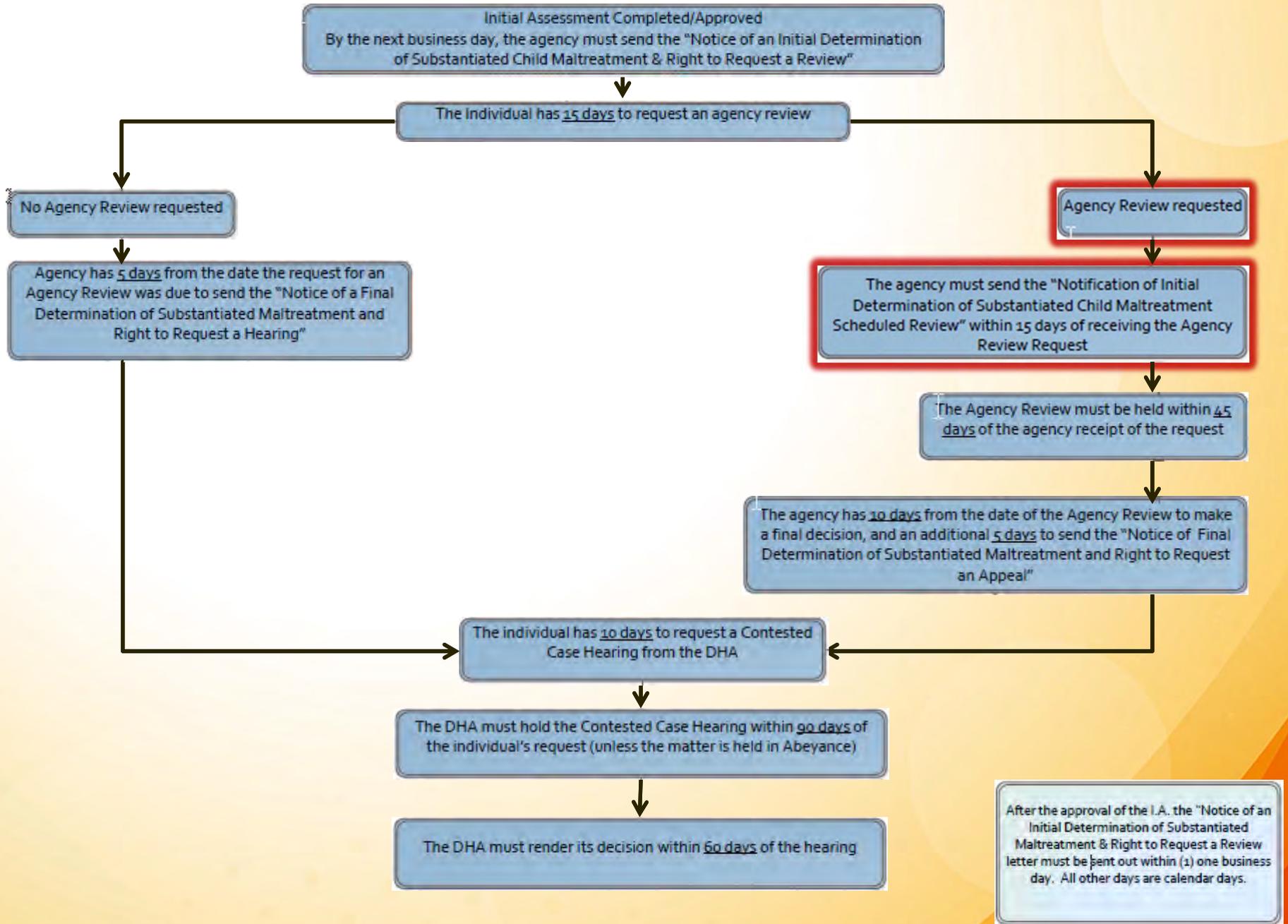
Save Close

100%



UNDER CONSTRUCTION

Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

Notification of Initial Determination of Substantiated Child Maltreatment Scheduled Review

The letter must include:

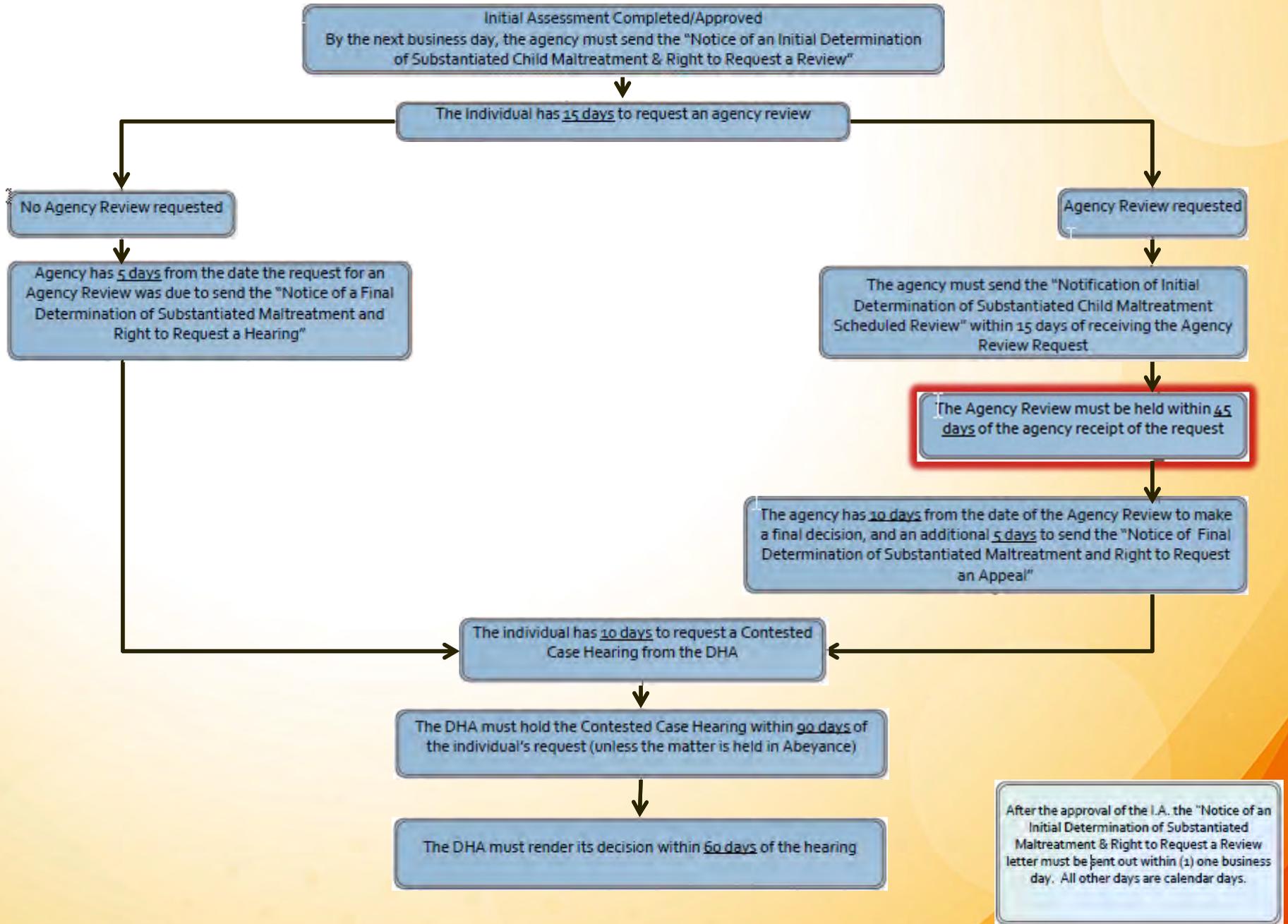
- The date, time and place of the review

Timelines:

- The letter must be sent within fifteen (15) days after receiving the review request, and
- At least seven (7) days before the review



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

The review of the initial determination may be by an individual or panel who shall have the authority to make the final determination.

- Any person conducting the review:
 - Must have knowledge of child protective services in Wisconsin
 - May not have had any prior involvement in the investigation or determination for the case being reviewed
- If the review is conducted by a panel:
 - The panel must be comprised of at least 3 members
 - The final determination shall be the decision of the majority of the panel

Timelines:

- The agency review must be held within forty-five (45) days
- The person may request one rescheduling of the review date or time and the agency must grant the request if the review can still be held within forty-five (45) days



The Agency Review must be held within 45 days of the agency receipt of the request

Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

The screenshot shows the eWISACWIS web application interface. At the top, the browser address bar displays the URL: <http://fedaplv06/7?saikd=0.826221659854892>. The application header includes the logo "eWISACWIS" and navigation icons for Home, Print, Spell Check, and Help. Below the header, there are two tabs: "Assessment" and "Report". The "Assessment" tab is active, showing the following information: Name: Bird, Margo; Assessment ID: 9222098; Status: Open; Response Time: Within 5 business days; Date: 06/25/2014. Below this, there are several tabs: Participants, Basic, Allegations, Contacts, Results, and Reviews. The "Reviews" tab is selected, displaying a "Review History" table. The table has the following columns: Substantiated Maltreatment, Assessment Approved, Notice To Be Mailed By, Sent, Date Sent, Response Due, Response Received, and Review Status. The data rows are as follows:

Substantiated Maltreatment	Assessment Approved	Notice To Be Mailed By	Sent	Date Sent	Response Due	Response Received	Review Status
Margo Bird	06/26/2014	06/27/2014	<input checked="" type="checkbox"/>	06/26/2014	View 07/11/2014	07/11/2014	Create Review
Larry Bird	06/26/2014	06/27/2014	<input type="checkbox"/>	00/00/0000	Text 00/00/0000	00/00/0000	

At the bottom of the window, there are "Save" and "Close" buttons. The browser status bar shows "100%".



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

Review Details -- Webpage Dialog

WisACWIS Print Spell Check Help ?

General Information

Name: [Rind, Maron \(9226722\)](#) DOB: 08/05/1974 SSN: 555-22-3333
Assessment Completed: 08/25/2014 Review Status: Pending

Review Tracking

Right to Review Letter Mailed on: 06/30/2014 Response from AM Due by: 07/15/2014 Response Received from AM on: 07/11/2014
Reply Due to AM No Later Than: 07/25/2014

Date of Letter: 07/15/2014 Sent Date & Time Scheduled: 06/10/2014 10:30 AM PM [Text](#)

Location/Call-in Information:

115 Garmon Street
Racine, WI 54251
Room 202

[More...](#) [Less...](#) [Default](#)

Rescheduled Review

Reschedule Requested Date Request Received: 00/00/0000

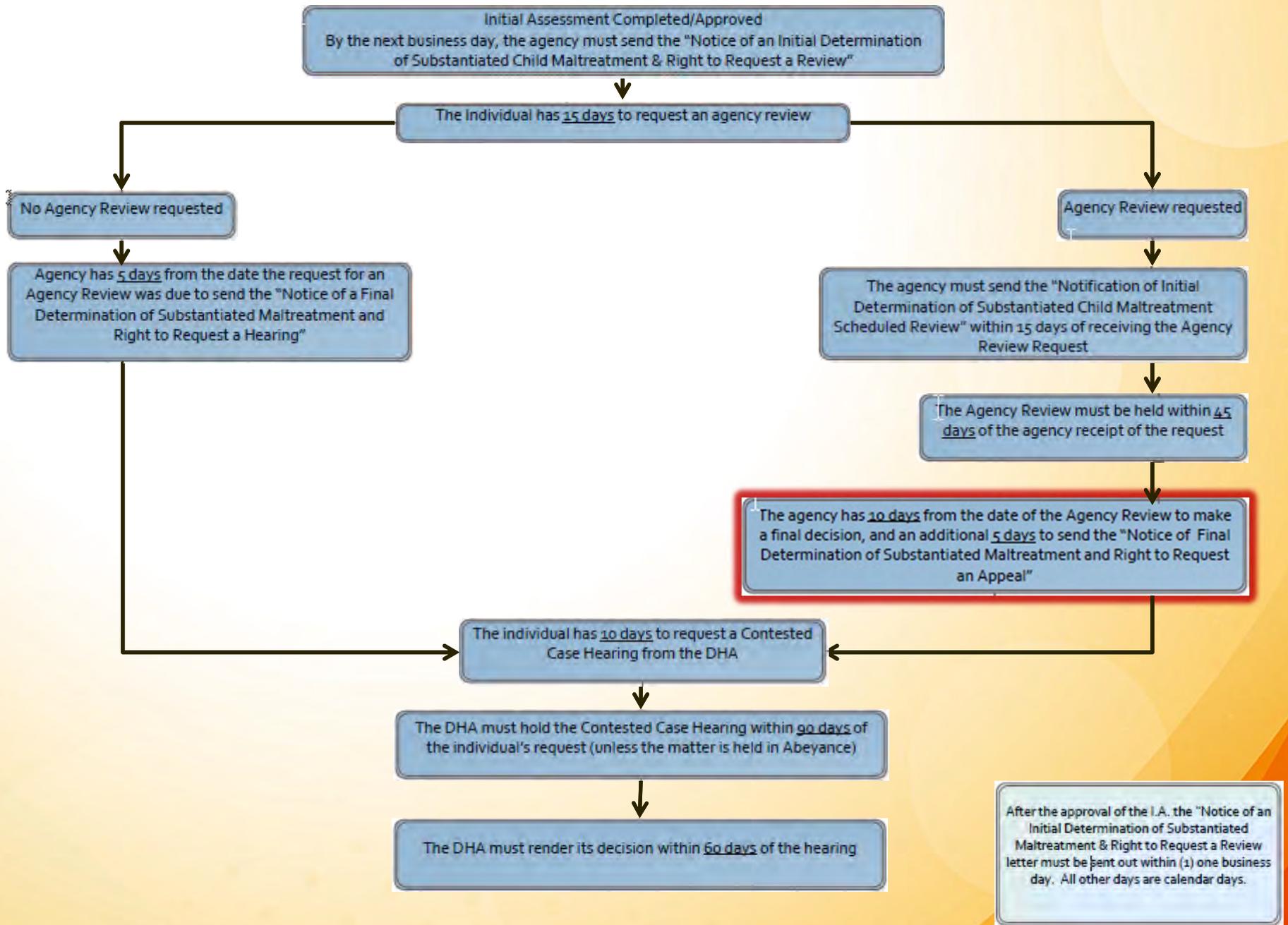
Date of Letter: Sent Date & Time Scheduled: 00/00/0000 00:00 AM PM

Location/Call-in Information:

[More...](#) [Less...](#) [Default](#)



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

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

The letter must include:

- The individual or panel's final determination on whether the specific person abused or neglected a child
- If the review upholds the substantiated finding, the letter must also include:
 - A summary of the reason for the final determination
 - Information on appealing the final determination

Timelines:

- The individual or panel shall make their final determination within ten (10) days of the date of the review
- The letter must be sent within five (5) days
- Documented in eWiSACWIS within fifteen (15) days after the agency's final determination



The agency has 10 days from the date of the Agency Review to make a final decision, and an additional 5 days to send the "Notice of Final Determination of Substantiated Maltreatment and Right to Request an Appeal"

Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

Review Details -- Webpage Dialog

eWISACWIS [Print](#) [Spell Check](#) [Help ?](#)

General Information

Name: [Bird, Marco \(9226722\)](#) DOB: 06/05/1974 SSN: 555-22-3333
Assessment Completed: 05/25/2014 Review Status: Pending

[More...](#) [Less...](#) [Default](#)

Rescheduled Review

Reschedule Requested Date Request Received: 08/01/2014

Date of Letter: Sent Date & Time Scheduled: 08/11/2014 10:30 AM PM [Text](#)

Location/Call-in Information:

115 Gammon Street
Racine, WI 54251
Room 202

[More...](#) [Less...](#) [Default](#)

Review Outcome

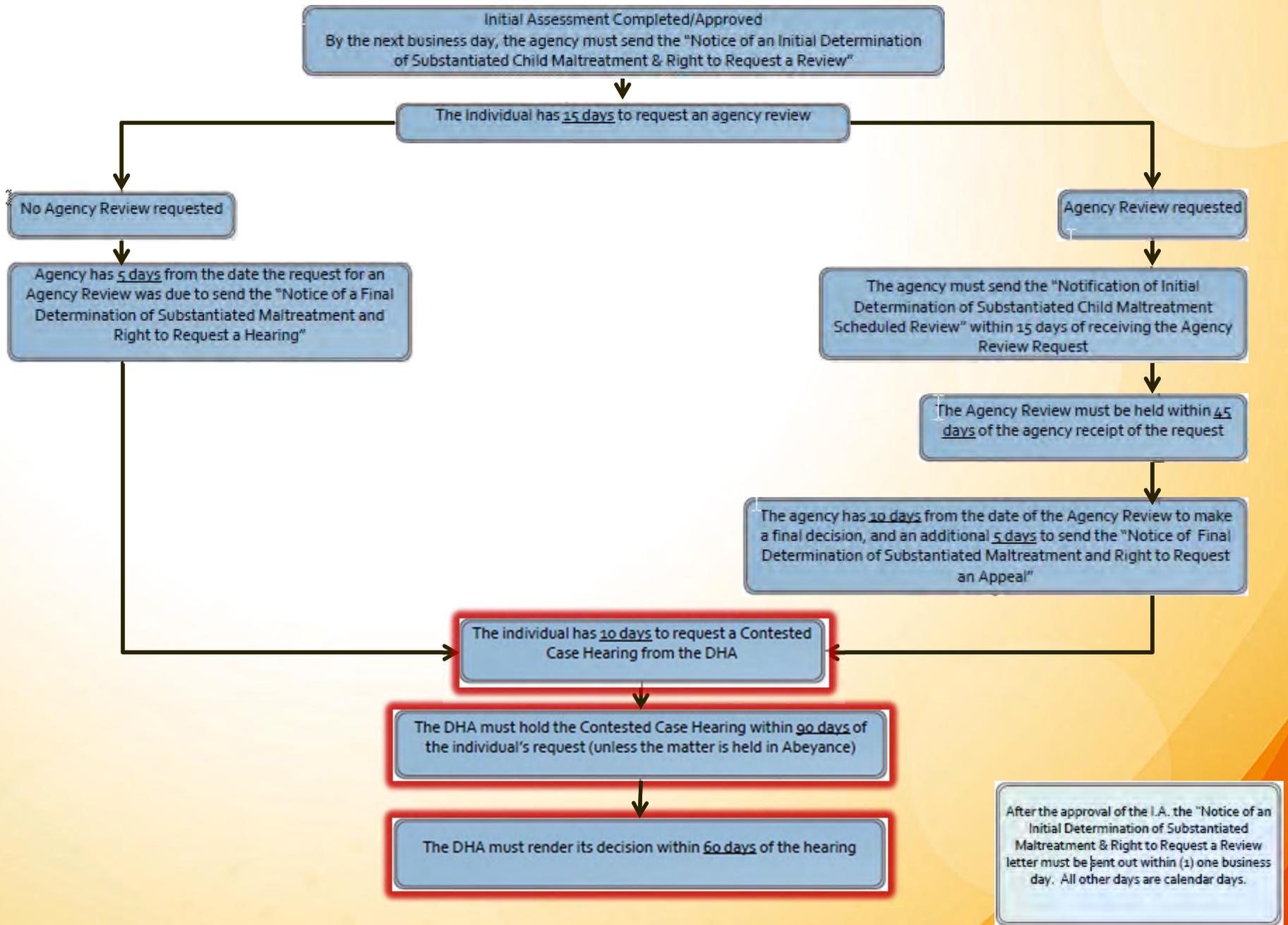
Review Occurred AM PM Review Did Not Occur - AM Failed to Appear

Report ID	Victim	Relationship to Victim	AN Code	Description	Review Status
9239038	Bird, Barney	Biological Parent(s)	Physical Abuse	Bruising-Burn/Scald-Cut/Laceration/Bite	Pending
9239038	Bird, Li	Biological Parent(s)	Neglect	Failure to Thrive-Lack of Supervision	Pending
9239038	Bird, Li	Biological Parent(s)	Physical Abuse	Bruising-Burn/Scald-Cut/Laceration/Bite	Pending

Options:



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect



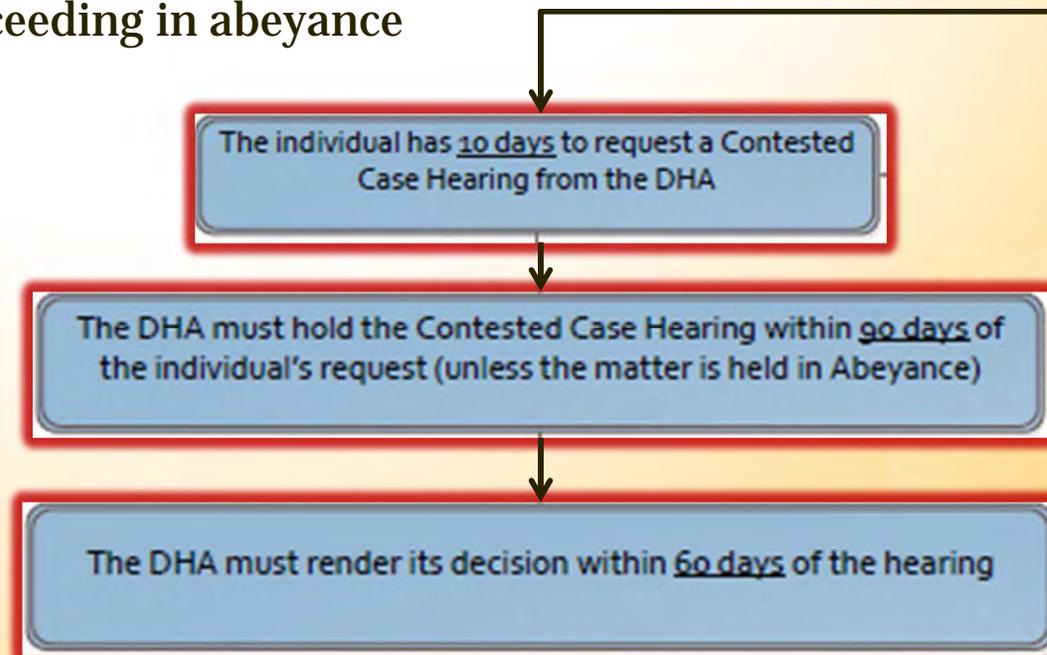
Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect

Division of Hearings and Appeals Contested Case Hearing

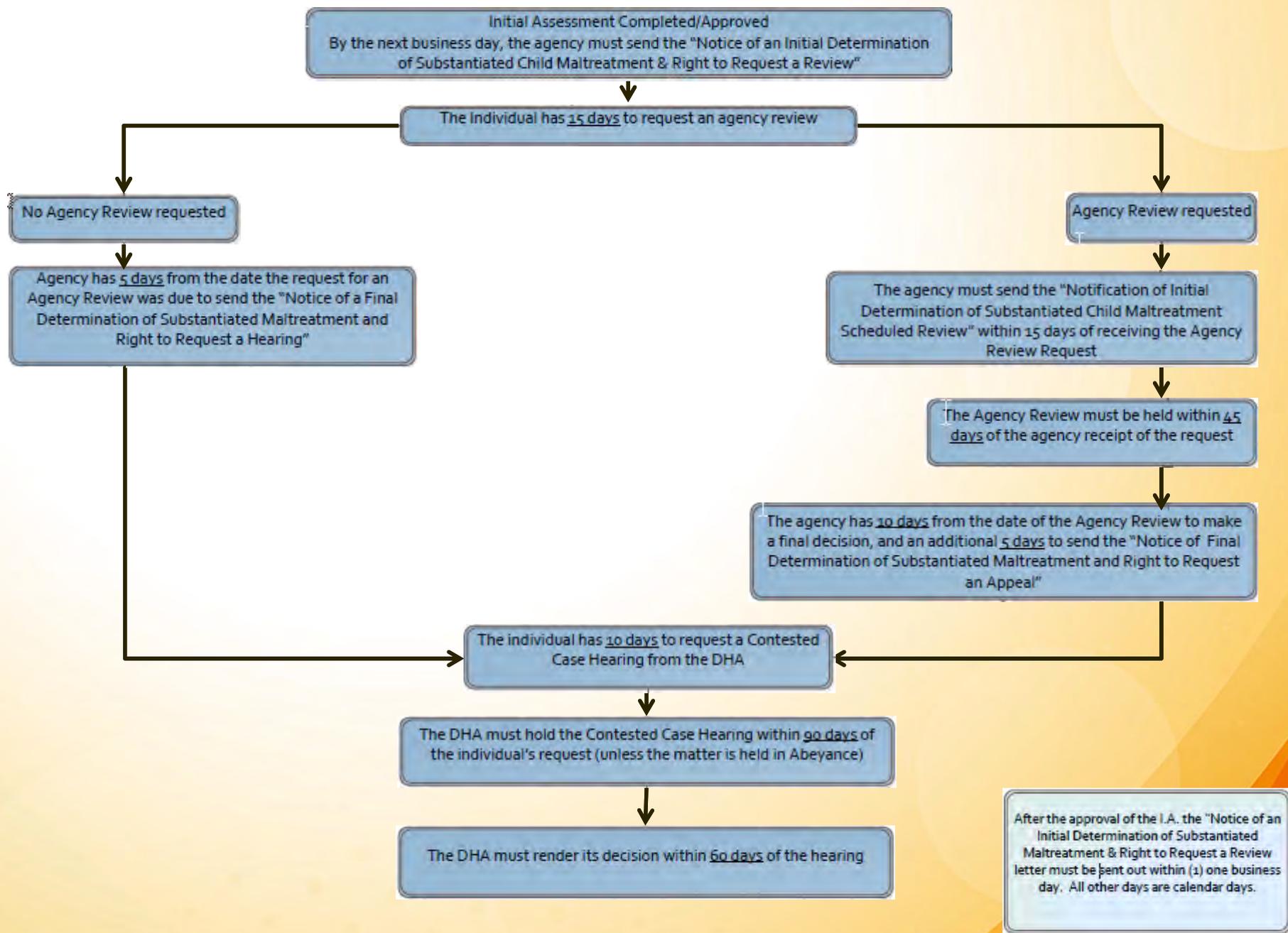
An individual has a right to a DHA hearing whether or not they requested an Agency Review

Timelines:

- The person must request a DHA hearing within 10 days after the date of the notice of final determination
- DHA shall commence the contested case hearing within 90 days after the receipt of the request unless the hearing is rescheduled by the person or DHA holds the proceeding in abeyance



Appeals Procedure for Substantiated Determinations of Child Abuse or Neglect



Substantiation Decision Making

Maltreatment/Maltreater Decisions:

- What type of maltreatment, by whom, documented where
- Maltreatment determination
- Maltreater determination

Resources:

- Access & Initial Assessment Standards
 - Appendix 2: Substantiating the Different Types of Maltreatment
 - Chapter 20: Determinations of Maltreatment and Maltreaters
 - XX.C. Criteria for Substantiating a Specific Person as a Maltreater
 - Appendix 7: Considerations in Maltreater Determinations
- Supervision



Burden of Proof

- **Beyond a Reasonable Doubt – conviction**
- **Probable Cause – arrest**
- **Clear and Convincing - CHIPS petition**
- **Preponderance of Evidence – substantiation finding**

Preponderance of Evidence

- Definition
- Considerations
 - Credibility
 - Persuasiveness
- Resources
 - Wisconsin Children's Code
 - Chapter 48. 981 (3) (c)4
 - CPS Access & Initial Assessment Standards:
 - Chapter 20: XX.A. Requirements in Making Maltreatment Determinations
 - Appendix 2: Substantiating the Different Types of Maltreatment

Notice of:

- Initial Determination of Substantiated Child Maltreatment & Right to Request a Review
- Final Determination of Substantiated Child Maltreatment & Right to Request an Appeal

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

➤ Basis for initial determination

➤ Critical elements:

- Sources of information

- Extent of maltreatment

- Rationale for identifying specific person

Notice of Initial Determination of Substantiated Child Maltreatment & Right to Request a Review- Physical Abuse

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 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 Statute 48.02 (1) a. 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 Child Smith 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.

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

➤ Basis for final determination

➤ Critical elements:

- Statement regarding the review

- Outcome

- Rationale for outcome

Final Determination of Substantiated Maltreatment & Right to Request Appeal- Physical Abuse

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 (14g). 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.

Examples...

- Sexual abuse
- Neglect

Notice of Initial Determination of Substantiated Child Maltreatment & Right to Request a Review- Sexual Abuse

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:

On January 1, 2015 XYZ Wisconsin County received a referral alleging sexual abuse to Child Smith. XYZ County investigated the reported incident. Information about the reported incident was gathered and analyzed. Such information included: interviews, observations, medical records, and the police report. The information gathered is credible and persuasive and meets the statutory definition of sexual abuse listed in Wisconsin State Statute 48.02 (1) (b). At the conclusion of the investigation, it was determined the allegation of sexual abuse to Child Smith is substantiated and you are the maltreater. Specifically, Child Smith disclosed sexual contact in the form of digital penetration and fellatio beginning in January 2014. As such one can reasonably conclude you perpetrated such abuse for the purpose of your own sexual arousal or gratification.

Final Determination of Substantiated Maltreatment & Right to Request Appeal- Sexual Abuse

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:

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

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 sexual abuse to Child Smith and you remain the identified maltreater. This decision was made based on the fact that Child Smith was less than 15 years old at the time of the maltreatment, sexual contact in the form of digital penetration and fellatio occurred and it was for the purpose of your sexual arousal or gratification. Mr. Smith you asserted the medical records are inconclusive of sexual abuse and therefore the substantiation decision should be overturned. In reviewing the totality of the information gathered, the medical records are inconclusive of sexual abuse; however, there is a preponderance of credible and persuasive evidence documented in the case record which includes documented interviews with the victim, the victim's mother, and collateral contacts. As such, you remain the identified maltreater of sexual abuse to Child Smith.

Notice of Initial Determination of Substantiated Child Maltreatment & Right to Request a Review-Neglect

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 neglect of Child Smith.

The basis for this determination is as follows:

On January 1, 2015, XYZ Wisconsin County received a referral alleging neglect to Child Smith. XYZ Wisconsin County investigated the reported incident. Information about the reported incident was gathered and analyzed. Such information included: interviews, observations, and the police report. The information gathered is credible and persuasive and meets the statutory definition of neglect listed in Wisconsin State Statute 48.02 (12g). At the conclusion of the investigation, it was determined that the allegation of neglect to Child Smith is substantiated and you are the maltreater. Specifically, you perpetrated domestic violence against Ms. Allen and although Child Smith was not present, she might have been exposed to violent behavior in the home and it could increase in frequency or severity. As a result you put her at significant risk of being seriously physically injured.

Final Determination of Substantiated Maltreatment & Right to Request Appeal- Neglect

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:

Neglect of Child Smith resulting in a Final Determination of Child Maltreatment of **unsubstantiated**.

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 credible and persuasive information presented to overturn such a finding; therefore, it was determined that XYZ Wisconsin County will overturn the decision to identify you as the maltreater of substantiated neglect to Child Smith. This decision was made based on the fact that Child Smith, although a part of the household, was not present at the time of the incident; therefore, she was not exposed to the violence, did not intervene, and did not witness substantial harm to any person present. Further, there is no information gathered that suggests the violent behavior in the home was increasing in frequency or severity. Rather, the information documented indicates the reported incident was the first occurrence.

eWiSACWIS Report

- Phase I and II
- Accessibility
 - Daily
 - On-Demand

FAQ

The background of the slide features a warm color palette of oranges and yellows. It is decorated with several large, semi-transparent, overlapping circles of varying sizes, creating a bokeh or bubble effect. The overall aesthetic is clean and modern.

Final Thoughts

Appeals memo link

http://dcf.wisconsin.gov/memos/num_memos/DSP/2014/2014-07.pdf

Appeals website



Contact Information

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