

Division of Safety and Permanence


DSP Informational Memo Series 2025-14i

May 28, 2025

To: DCF/DMCPS Administrator
DCF Area Administrators
Child Placing Agency Directors
Child Welfare Agency Directors
County Departments of Community Programs Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Group Home Providers
Private Child Placing Agencies
Residential Care Center Providers
Shelter Care Providers
Tribal Chairpersons

From: John Elliott
Administrator

Re: ***De-delegation of final decision-making authority for sexual abuse substantiation appeals***

**PURPOSE**

This memo is to inform partners of an update to the process for certain child maltreatment substantiation appeals. The Department of Children and Families (DCF) has de-delegated final decision-making authority from the Division of Hearings and Appeals related to sexual abuse substantiation appeals. Final decisions in those substantiation appeals will now be issued by the Department. This memo is related to the [DSP Memo Series 2014-07](#) on Appeal Procedures for Substantiated Determinations of Child Abuse or Neglect.

BACKGROUND

The federal Child Abuse Prevention and Treatment Act, commonly referred to as CAPTA, requires that persons who are substantiated to have abused or neglected a child have access to due process related to this finding by a local child protective service (CPS) agency. DSP Memo Series 2014-07 explains that in Wisconsin, an individual has the right to request an appeal hearing related to an agency's final determination of substantiated child maltreatment from the Division of Hearings and Appeals (DHA). After the hearing, DHA issues a decision either to uphold or overturn the substantiation determination.

Statute and rule lay out timeframes and procedures for the making a determination to substantiate an individual of child abuse or neglect and the appeal processes related to this determination. There have been no recent changes to statute or rule relating to this process. This memo addresses a change to DCF's delegation for final decision-making in sexual abuse substantiation appeals to the DHA to better safeguard the wellbeing of children who have been identified to be substantiated victims in these appeals.

INFORMATION SUMMARY

Beginning in August 2008, DCF delegated final decision-making authority for all types of substantiation appeals to DHA under Wis. Stat. § 227.46(3)(a). As of October 9, 2024, DCF has de-delegated the final decision-making authority for appeals of substantiations of sexual abuse allegations. For substantiated sexual abuse allegations, the appeal process remains the same through the Agency Review process. However, when DHA issues a decision in an appeal it hears related to a sexual abuse substantiation, the DHA decision will be issued as a Proposed Decision and sent to all parties to the appeal as well as DCF. The Proposed Decision will include information for parties on the process for submitting an objection to the Proposed Decision. Pursuant to Wis. Stat. § 227.46, parties to the appeal have 15 days to file written objections to the Proposed Decision. DCF will review each of the child sexual abuse substantiation Proposed Decisions, any objections raised by parties to the matter, and the hearing record and will then issue a Final Decision.

This procedural change seeks to further two important goals:

- Assuring a comprehensive review of all available evidence and compliance with applicable law while, wherever possible, minimizing the need for direct testimony from minor victims, thereby prioritizing the emotional and psychological safety of affected children.
- Reflecting DCF's commitment to evidence-based, trauma-responsive practices in cases involving sexual abuse by maintaining investigative integrity, while reducing the risk of re-traumatization children experience during legal proceedings.

The Division of Safety and Permanence will continue to complete the necessary eWiSACWIS documentation related to all findings completed by DHA and DCF, per the [DSP Numbered Memo Series 2017-13](#).

REGIONAL OFFICE CONTACT: DCF Area Administrator

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MEMO WEB SITE: <https://dcf.wisconsin.gov/cwportal/policy>