Notice of Final Determination of Child Abuse and/or Neglect and Right to Request an Appeal

Review Occurred

**Date of Notice of Final Determination of Child Abuse and/or Neglect:**

Dear      :

After review of the **Initial Determination of Child Abuse and/or Neglect** described in the agency’s letter dated      , the agency       has made a final decision.

**Final Determination of Child Abuse and/or Neglect**

An agency review of the Initial Determination of Child Abuse and/or Neglect was requested and held on the following date:      .

Based on our agency’s investigation and review, the following are the final results for each Initial Determination of Child Abuse and/or Neglect:

**Type of Abuse/Neglect:**      .

**Child:**      .

**Final Determination:**      .

**Evidence:**      .

Any Final Determination of Child Abuse and/or Neglect listed as unsubstantiated, means that our agency did not find enough evidence to determine that child abuse and/or neglect occurred, and the agency’s records will be updated accordingly. Any written materials you submitted for the review process will be part of the case record. No further appeal or rehabilitation review is needed regarding an unsubstantiated result.

Any Final Determination of Child Abuse and/or Neglect listed as substantiated, means that our agency did find enough evidence to determine that child abuse and/or neglect occurred. You may request an appeal hearing regarding this determination. Details on how to do this are below.

**Right to Appeal a Final Determination of Child Abuse and/or Neglect**

You may request an appeal hearing at the Division of Hearings and Appeals for any determination of substantiated child abuse and/or neglect. At an appeal hearing, you may present relevant evidence, including written or documentary evidence, give testimony, and examine and cross-examine witnesses. You may hire an attorney or have another type of representative assist you at the appeal hearing.

To request an appeal hearing with the Division of Hearings and Appeals fully complete the enclosed form, “Child Abuse and/or Neglect Contested Case Hearing Request”, and mail, personally deliver, or fax the form. The deadline to request an appeal hearing is within ten (10) days after the date of this letter. Your request for an appeal will be considered received if:

* You mail the form and it is postmarked within 10 days of the date of this letter.
* If you hand deliver the form within 10 days from the date of this letter.
* If you fax the form and the division’s fax machine receives it within 10 days of the date of this letter.

The Division of Hearings and Appeals will schedule the hearing within 90 days of receiving your hearing request. If the hearing is rescheduled or delayed pending the outcome of related criminal proceedings or child protective services proceedings, then the hearing will be held at that time. The Division of Hearing and Appeals will issue a final decision within 60 days of the hearing. You may request a judicial review of the final hearing decision following the hearing as provided in Wisconsin Statutes Chapter 227.

You may request that the Division of Hearings and Appeals hold your hearing at an earlier date 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 caregiving setting or entity subject to the Wisconsin Caregiver Law (see Attachment A for more information regarding expedited appeal hearings). If you meet requirements for an expedited appeal and would like to request one, complete the related section in the “Child Abuse and/or Neglect Contested Case Hearing Request” form.

**Potential Impact of the Final Determination of Substantiated Child Abuse and/or Neglect**

The Wisconsin Caregiver Law requires caregiver background checks for people who have or are applying for certain employment, licenses, certifications, registrations, contracts or may also apply to 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 abuse and/or neglect may bar you from work and activities requiring 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 Abuse and/or Neglect and the Division of Hearings and Appeals finds that the abuse and/or neglect was not proven, the agency’s records will be updated accordingly.

**Rehabilitation Review**

A successful rehabilitation review removes the bar and gives the person the chance to be considered for a license or certification, or to be allowed to work or reside at a facility. It does not guarantee that a person will be hired, licensed or certified. A rehabilitation review will appear on a person's future Caregiver background checks.

A successful rehabilitation review does not change a person's CPS or criminal record.

**See Attachment B** to this letter for more information on Caregiver Law background checks for Final Determinations of Child Abuse and/or Neglect and Rehabilitation Reviews.

Sincerely,

Telephone Number:

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

**Child Abuse and/or Neglect Contested Case Hearing Request**

**Wisconsin Department of Administration**

**Division of Hearing and Appeals**

Complete all the requested information in the form below and hand deliver, mail, or fax the form, with a copy of the Notice of Final Determination of Child Abuse and/or Neglect letter, *within 10 days of the date of the* ***Notice of******Final Determination of Child Abuse and/or Neglect****,* to the agency listed below:

#### Wisconsin Division of Hearing and Appeals

**4822 Madison Yards Way**

#### Madison, WI 53705

**Fax Number: (608) 264-9885**

**Date of Notice of Final Determination of Child Abuse and/or Neglect and Right to Request an Appeal Letter:**

Sent By:      Telephone Number:

|  |  |  |
| --- | --- | --- |
| Full Name of 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):       Witness Name(s):       Witness Address(es):       Witness Name(s):       Witness Address(es):       Witness Name(s):       Witness Address(es):       Witness Name(s):       Witness Address(es):       Witness Name(s):       Witness Address(es):      *\*NOTE: Providing this information does not commit you to this decision or participation of any specific witness(es). You may change this decision at any time prior to the hearing.* |
| I am requesting an administrative hearing to appeal a Final Determination of Child Abuse and/or Neglect 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.)      |

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**Attachment A**

**EXPEDITED APPEAL 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, 48.686 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 Child Abuse and/or Neglect 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 Sections 48.685, 48.686 or 50.065, Stats.
* You are currently employed by, contract with, or you are actively engaged in seeking employment, an entity for duties subject to the record check requirements under Wisconsin Statute Sections 48.685, 48.686 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 Sections 48.685, 48.686 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.

**Attachment B**

**Wisconsin Caregiver Law Background Check Summary – Wisconsin Statute Sections 48.685, 48.686, and 50.065**

**A Child Abuse and/or Neglect Final Determination may bar a person from certain child or health care caregiver employment, regulatory approval or non-client residency under the Wisconsin Caregiver Law.**

A person with a Child Abuse and/or Neglect Final Determination may be barred from **operating**, being **employed**, **licensed,** **certified,** or **contracted** with or **being a non-client resident** involving the following:

* Child day care or child day camps
* A child foster home, group home, shelter care facility, or residential care center
* A subsidized guardianship home or a pre-adoptive or adoptive home
* Child welfare agencies, child placing agencies
* Certain entities acting as guardians or facilitating delegations of parental authority
* Hospitals, medical clinics, pain clinics, rural medical care centers
* Personal care workers, personal care agencies, home health agencies, outpatient rehabilitation, ambulance service providers *(does not include EMTs or First Responders)*
* In-patient and out-patient mental health, alcohol and drug services and clinics
* Community mental health and developmental disability services and support programs
* Adult day care, adult care facilities
* Community-based residential facilities, residential care apartment complexes, developmental disability facilities
* Nursing homes, rehabilitation centers, assisted living facilities, hospices
* Board on Aging and Long-Term Care (including ombudsmen)
* Certain other regulated caregiving activities or entities for children, vulnerable adults, or patients regulated by the Department of Children and Families or the Department of Health Services as required by the Wisconsin Caregiver Law.

For some offenses, a person will be permanently barred. For other offenses, a person will be barred unless they request a rehabilitation review and are found to be rehabilitated for certain caregiver activities.

The rehabilitation review allows caregivers or residents to give evidence that:

* They have been rehabilitated, and
* Clients will be safe under their care.

**Rehabilitation Review**

A successful rehabilitation review removes the bar for some of the above activities and gives the person a chance to be considered for a license or certification, or to be allowed to work or contract with or reside at a facility. It does not guarantee that a person will be hired, licensed, or certified, be given a contract or reside at a facility. A rehabilitation review appears on future Caregiver Background Checks.

A successful rehabilitation review does not change a person's CPS or criminal record.

For more information on caregiver bars and Rehabilitation Reviews, see Wisconsin Statutes 48.685(5), 48.686(5), and 50.065(5) and contact:

* For health care caregiving activities:

Department of Health Services Office of Legal Counsel (608-266-8428) [*http://www.dhs.wisconsin.gov/publications/p6/p63160.pdf*](http://www.dhs.wisconsin.gov/publications/p6/p63160.pdf)

* For child caregiving activities:

Department of Children and Families Office of Legal Counsel (608-422-7041) [*https://dcf.wisconsin.gov/rehab-review/contacts*](https://dcf.wisconsin.gov/rehab-review/contacts)