



Department of Human Services

Provider and Chapter

**Foster Group Care Services**

Chapter F. Audits, Sanctions, and Appeals

Page


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Date

July 1, 2009

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## Independent Audits

**Legal reference:** 441 IAC 152.2(7)"d" Independent Audits

You must have an independent audit of your financial statements performed on an annual basis when your agency receives \$500,000 or more from the Department in any state fiscal year from funds paid under contracts for foster group care services.


Required independent audits shall be completed within six months of your agency's established fiscal year end during the state fiscal year in question. If this is not possible, the Bureau of Purchased Services may approve an extension of this time limit upon your written request. Please submit extension requests directly to the Bureau of Purchased Services.

When you have an independent audit, a firm not related to your agency shall conduct the audit. You must ensure that the independent audit of your financial statements follows one of the uniform audit report formats recommended by the American Institute of Certified Public Accountants (AICPA).

- ◆ Audits of not-for-profit providers shall follow the format in the most recent version of the ***AICPA Audit and Accounting Guide for Not-for-Profit Organizations***.
- ◆ Audits of other types of providers shall follow the formats prescribed by the AICPA for their specific industry.

The legal entity that has contracted with the Department must be the subject of this independent audit.

- ◆ When the legal entity that has contracted with the Department is a subsidiary of another legal entity:
  - A separate independent audit of the contracting entity may not be performed, because AICPA standards require a consolidated or combined audit of the larger entity.
  - The Department will accept the consolidated or combined audit if supplemental schedules that separately identify the financial statements of the contracting legal entity are provided.

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- ◆ When contract services are provided by a subsidiary entity of the contracting entity:
  - If a consolidated or combined audit is performed, the Department may require supplemental schedules to identify the financial statements of the subsidiary entity and the contracting entity separately.
  - If a consolidated or combined audit is not performed, the Department may require that the subsidiary entity also be the subject of an independent audit.

While you are not required to have an independent audit if you receive less than \$500,000 in any state fiscal year for services provided under these contracts, you are required to furnish a copy of any independent audit that is performed.

If an independent audit is conducted of your agency, you are required to submit a copy of the audit report to the Department within 30 days of receipt. Submit two copies of the independent audit report directly to the:

Bureau of Purchased Services  
 1305 E Walnut Street 1st Fl  
 Des Moines IA 50319-0114

### **Department-Authorized Reviews and Audits**

<b>Legal reference:</b>	441 IAC 152.2(6)	Maintenance of Service Records
	441 IAC 152.2(7)	Maintenance of Financial and Statistical Records
	441 IAC 152.8(234)	Contract Management
	441 IAC 152.9(234)	Provider Reviews

The Department or its authorized representatives have the right to review or audit the client service records and fiscal records of any foster group care services provider at any time at the Department's discretion.

Department contract monitors make on-site visits to providers to monitor provider performance under the FGCS contract and to provide technical assistance. The Department routinely conducts billing reviews by contract monitors. Other types of reviews and audits may be conducted at any time at the discretion of the Department.

The review may include on-site visits to your office, to your central accounting office, to the offices of your agents, or to other locations by mutual decision. These visits may be scheduled or may be unannounced.



The general purpose of these reviews is to determine if the data in client service and fiscal records is verifiable and accurate, as required by the contract, state administrative rules, or other state or federal laws or regulations. However, during an on-site visit, the contract monitor may review any issue related to the FGCS contract.

Department staff may visit you within the first four months after the initiation of your contract or of a new FGCS program or site that you did not previously offer. The purpose of the initial visit is to review with you the documentation requirements of the FGCS programs you are providing and offer technical assistance.

Such informative reviews are not considered audits. However, if serious billing or payment issues are found, repayment of identified overpayments may be required.

The reviewer will select the appropriate method of conducting the review or audit. Review and audit procedures may include, but are not limited to:

- ◆ Reviewing your general fiscal records to determine if they substantiate invoices submitted to the Department.
- ◆ Comparing client service and fiscal records with each claim.
- ◆ Interviewing recipients of services and your employees.

Reviewers and auditors may use records generated and maintained by the Department or its fiscal agent in all proceedings of the Department. Upon proper identification, authorized reviewers or auditors have the right to review your client service and fiscal records. All records are subject to review during the period that you are required to maintain them.

- ◆ Maintain client service records for a minimum of five years after final payment or completion of any required audit or review, whichever is later.
- ◆ Maintain financial and statistical records, including program and census data, for a minimum of five years from the date of report submission or final payment for services.

These records shall be available for review at any time during normal business hours by Department personnel, the Department's fiscal consultant, and state or federal audit personnel.

If you are required to furnish records to the reviewer, you may select the method of delivering any requested records. The reviewer will protect the confidential nature of the records being reviewed.



Reviewers and auditors will use generally accepted auditing procedures, as applicable, to determine whether:

- ◆ The Department has accurately paid claims for services.
- ◆ You have furnished the services.
- ◆ The expenses you document are correctly attributed and allocated to the appropriate activity.
- ◆ Limits on the allowability of expenses were followed.
- ◆ You have retained client service and fiscal records that substantiate the claims you submitted for payment of authorized foster group care services provided during the review or audit period.

The reviewer reports the results of any review or audit of provider records to concerned parties, consistent with the provisions of the Department's rules on confidentiality. When an overpayment is found, the Department will request repayment and may also:

- ◆ Impose sanctions. (See [Provider Sanctions](#) in this chapter.)
- ◆ Investigate and refer to an agency empowered to prosecute.

You may appeal decisions of the Department. (See [Appeals](#) in this chapter.)

### **Billing Reviews**

FGCS billing reviews are the most common type of reviews conducted by the Department. Billing reviews are designed to evaluate the adequacy of the documentation created and maintained to substantiate claims for payment of services billed to the Department. Billing reviews may be conducted in conjunction with on-site visits by licensing specialists or other authorized staff.

At a minimum, a routine billing review will consist of a review of a sample of the documentation that you maintain for billings. The Department may review a statistically valid audit sample at any time at its sole discretion.

Documentation is not subject to an FGCS billing review before an invoice is submitted for the service. (However, the documentation may be reviewed at any time for other purposes such as licensing, technical assistance, or contract compliance.)



As an FGCS contractor, you are required to create and maintain documentation that accurately reflects the services you provide and appropriately supports the billings you subsequently submitted to the Department for payment.

You are responsible for knowing and following the documentation requirements of the foster group care services you provide. You are expected to have a quality control process that enables you to produce and maintain the required documentation with a consistently high degree of reliability. Documentation must comply with rules in 441 IAC 152.2(6):

- ◆ Be created by the qualified person providing the service,
- ◆ Not be subsequently changed by others,
- ◆ Be created contemporaneously to the service provision and before the submission of the service billing, and
- ◆ Be part of the confidential, individual client service record.

Before you submit an invoice for payment of services, you may examine your records to see if supplemental documentation is required. See Chapter D, [Document Deficiency Cures](#), for instructions on supplemental documentation. If you have questions regarding any requirements, review this handbook and your FGCS contract or contact your contract monitor to obtain clarification.

Once a billing (invoice) for a service is submitted to the Department, any contractor's clinical and fiscal records related to that service are subject to a billing review. The objective of a routine billing review is to determine if you have appropriately and accurately documented the services rendered, so that claims paid by the Department are eligible for reimbursement. This limits:

- ◆ Your risk of having to refund future payments to the Department because you have submitted ineligible or non-substantiated claims.
- ◆ The Department's risk of losing or having to return federal funds because of having paid ineligible claims.

Maintain the documentation to substantiate your billings for at least five years after services to the client are terminated. If you cease providing foster group care services, contact the assigned contract monitor to determine how these records will be made accessible for the required period.



### **Review Process**

Before initiating a routine billing review, the Department will:

- ◆ Identify the services and the period to be reviewed (the audit universe),
- ◆ Select a statistically valid audit sample, and
- ◆ Determine when initiate and how to conduct the review.

For most billing reviews, you will be notified that a review will be conducted. This notice will usually include the date the review will begin and the time period covered by the review. The purpose of this notice is to enable you to:

- ◆ Assemble your:
  - Billing records,
  - Individual client service records,
  - Monthly census summaries, and
  - A list of staff and supervisors providing services for the programs and the period to be reviewed, with their qualifications; and
- ◆ Make staff available to locate and provide individual client records as they are requested.

You are required to make these records available on the day they are requested. Failure to do so will result in overpayment findings and may also result in the application of sanctions.

If you maintain the required documentation in more than one file, you are responsible for bringing this information together. All of the documentation to be considered in the review to substantiate your billings must be available for review at one time.

You will not be given the names of any of the cases selected for review ahead of time. An exception to this may be made to give you up to 24 hours to produce the records when:

- ◆ You routinely create and maintain your records at multiple geographically distant locations,
- ◆ Many records have been selected for review, and
- ◆ You are expected to produce these records at a central location.



Documentation to substantiate your billings must be available on the day it is requested or it cannot be considered in the review. When the need is identified, you will be given the opportunity to retrieve individual missing case documentation for inclusion in the record before the conclusion of the field portion of the audit.

For billing reviews where you do not receive prior notice, you are expected to assemble required individual client service records as they are requested, to the degree possible. In some cases, the Department may take custody of the individual client service records that substantiate your billings.

The goal of the review is to determine if the documentation contained in each client's individual service record supports the billings submitted for payment. In reviewing these records, the contract monitor will look for documentation that accurately reflects the per diem services provided and billed.

The documentation in each client's individual service record shall include at least the following items for each per diem unit of service contained in the audit sample:

- ◆ **The client's first and last name.** The first and last name of the child for which services are authorized and provided.
- ◆ **The month, day, and year the service was provided.**
- ◆ **The first and last name of the persons who provided the service.** Legible documentation of the first and the last name of the qualified person who provided and documented the service or service component is considered fulfillment of this requirement.

The name may be typewritten, printed, or a signature. Consider using a signature block or a stamp. If this is a stylized signature, ensure that the first and last names of the service provider are clear.

NOTE: You have **not** fulfilled the requirement to document who provided the service or service component if your record includes only the following identification and you have not cured this deficiency in accordance with [Documentation Deficiency Cures](#) (see Chapter D) before the audit begins:

- Only an initial or initials, or
- Only a first name, a middle name, or a last name, or
- Only a first name and an initial, or
- Only a first initial and a last name, or
- Only a license number (etc.)



- ◆ **A clear description of the specific services rendered**, including interventions, actions, and activities performed, which support the provision of child welfare services.

The record must contain a clear description of the specific interventions, actions, and activity actually performed by the qualified persons in rendering this service to this client during this day. (What did the service provider actually do and what strategies or techniques were used?)

Descriptions of the client's status, progress, reaction to events, or behavior do **not** meet the requirement to document the specific service rendered by the qualified service provider.

- ◆ **Any problem areas or unusual behavior of the client.** If a client is having an unusual problem or behavior and a program staff makes an intervention, the Department considers this a significant event that should be documented in the client's record, including

- The date that it happened,
- What the intervention was,
- The client's response, and
- The name of the staff that intervened.

- ◆ At a minimum, and no less than once in every seven calendar days, the documentation must also describe the **client's general progress in regard to the client's care plan.**

There must be a description of the client's progress (or lack of progress) toward achieving the goals or objectives identified in the care or service plan at least every seven days. This does not have to be in the documentation for each day of service.

When one or more items of documentation are missing from the service records supporting a particular claim, the reviewer will identify a possible overpayment for that claim.

### **Records Reviewed**

In general, when conducting the review, the contract monitor starts with DHS payment records or provider billing records or invoices and traces back through your monthly census summary to each client's individual service record.



The contract monitor will review at least the following forms or records in each client's individual treatment record:

- ◆ Provider care or service plans and plan reviews or revisions.
- ◆ Provider quarterly progress reports.
- ◆ Documentation of billed services.
- ◆ The Department case plan.
- ◆ *Referral and Authorization for Child Welfare Services*, form 470-3055.

The Department's most common review procedure consists of initially reviewing only a small "exploratory" portion of the previously selected audit sample and then deciding whether or not to continue reviewing individual client records. Other review and audit methodologies may be used at the Department's sole discretion.

The guidelines normally used in determining whether or not to stop reviewing cases before reviewing the entire audit sample are as follows:

- ◆ If no deficiencies or only **isolated** deficiencies are found, the audit may be concluded without further review. "Isolated deficiencies" means the noncompliance involves:
  - No more than three clients or incidents, and
  - No more than two provider staff or one location or site, and
  - Less than a 5% unit error rate.
- ◆ If a **pattern** of deficiencies is found, additional records may be reviewed. Depending upon the scope of problems identified, either the review will be concluded after the additional records are reviewed or the remainder of the audit sample will be reviewed.

A "pattern of deficiencies" means there is a recurring noncompliance, but the effect of this noncompliance is found not to be pervasive. The pattern may be formed from:

- Multiple observations or incidents with one client;
- Incidents involving several clients;
- Noncompliant documentation practice in several different sites;
- Multiple staff involved in the deficient practice, and
- More than a 5%, but less than a 10% unit error rate.



- ◆ Where **widespread** overpayment problems are found in the initial sample, the entire audit sample will be reviewed.

“Widespread deficiencies” means recurring noncompliance issues that are pervasive in a facility or represent a provider-wide failure. Such noncompliant practices have the potential to affect or are pervasive in their effect on billing documentation. A 10% or more unit error rate constitutes a widespread pattern of deficiencies.

Whenever a statistically valid audit sample is read, the findings will be extrapolated to the universe for the review period. When this procedure is used, all sampling will be performed within acceptable statistical methods, yielding not less than a 95% confidence level. The review findings generated through the review procedure constitute prima facie evidence in all Department proceedings.

### **Response to Billing Audit**

While the data collecting or field portion of the review is being conducted, the contract monitor will not know the probable outcome of the review.


Towards the end of field portion of the review, the contract monitor may schedule a time to identify missing items and give you an opportunity to find those items in existing documentation.

At the conclusion of the data gathering or field portion of the review, the contract monitor will provide examples of the types of problems found (if any). The contract monitor will not be able to provide a final report or the amount of any overpayment at this time.

If no overpayment or other serious problems were found, you will receive a copy of the *Report of On-Site Visit*, form 470-0670, from the contract monitor usually within 30 days of the completion of the billing review.

If an overpayment is found, you will usually receive a preliminary copy of form 470-3366, *FGCS Billing Audit Adjustment Summary*, which lists the clients and dates of service affected and totals the amount of overpayments found on those claims. [Click](#) - to see a sample of this form.

You will be given the opportunity to discuss these items and any other problems found before the reviewer completes the final report on form 470-0670, *Report of On-Site Visit*. This is your opportunity to identify any factual errors you believe were made.

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During the dialogue, you will need to present evidence contained within the documentation reviewed to support reasons why you believe the documentation is fully compliant with documentation requirements.

If this dialogue does not resolve the matter, and if the documentation was determined to be noncompliant because it did not contain a clear description of the services rendered, you can move the decision to a designated third party within DHS. The third party will be a consistent DHS person for all such reviews.

To do this, write your rationale and responses and submit them to the third party within ten working days of the conclusion of the dialogue with the contract monitor. If you do not move the decision to the third party, the contract monitor's decision stands.

- ◆ You can submit any evidence of situations of similar documentation from actual case records that were subject to prior billing and payment reviews that was determined to be acceptable in the prior review. If you have evidence that similar documentation was reviewed and passed two or more consecutive audits, the third-party reviewer will consider this factor.
- ◆ The contract monitor may also submit written documentation that you had been made aware of the error in past reviews.

The third party will review the documentation and issue a decision before the contract monitor moves to the next stage of the review process. The decision of the third-party reviewer is final, subject to appeal at an administrative hearing.

After considering your comments and any decisions from the third party team, the contract monitor will write the final report using form 470-0670, *Report of On-Site Visit*.

When the Department's review findings have been generated through sampling and extrapolation, and you disagree with the findings, the burden of proof of compliance rests with you. You may present evidence to show that the sample was invalid. The evidence must include a 100% review of the universe of your records used by the Department in the drawing of the Department's sample.



Any such audit must:

- ◆ Be arranged and paid for by you.
- ◆ Be conducted by a certified public accountant.
- ◆ Demonstrate that bills and records not reviewed in the Department's sample were in compliance with program regulations.
- ◆ Be submitted to the Department with all supporting documentation.

### **Overpayments**

One result of a billing review is a determination that an overpayment has been made. An overpayment is defined as "... any payment or portion of a payment made to a provider which is incorrect according to the laws and rules applicable to foster group care services which results in a payment greater than that to which the provider is entitled."

The determination that an overpayment has occurred is usually based upon one or more of the following general review findings:

- ◆ The agency did not provide the service that was billed to the Department;
- ◆ The service was provided by an individual unqualified to provide that service;
- ◆ The agency did not comply with a service specific rule pertaining to the service being reviewed; or
- ◆ The agency did not comply with one or more of the requirements for the documentation to substantiate billed services.
- ◆ As an FGCS provider, your documentation must adequately support the billings you submit to the Department for payment. The FGCS program has unique documentation requirements that must be met in order to substantiate the payment for child welfare services and group care maintenance services.

Written documentation to substantiate your billing must be maintained in the individual client service record. In order to be considered, this documentation must be available in each individual client service record when the billing review is conducted. Documentation will not be considered if it is not available while the field portion of the review is being conducted or if it is created or supplemented after the review has started.



The Department is liable to pay only for services provided in accordance with the terms and conditions of the FGCS contract. You will be required to **repay** payments made for claims that are found to be **ineligible for payment**.

If an overpayment is identified in the final *Report of On-Site Visit*, form 470-0670, you will be given details regarding the clients and amounts for which an overpayment has been identified on an *FGCS Billing Audit Adjustment Summary*, form 470-3366.

You will be given notice in the final *Report of On-Site Visit* that you have 15 calendar days from the date of the report to show cause why the Department should not request repayment of this identified overpayment.

If you fail to respond or do not adequately show cause why the Department should not request repayment of this identified overpayment, the Department will send you a separate letter requesting repayment of this overpayment within 30 days. Once you have received the letter requesting repayment, you have the right to appeal the repayment request. See [Appeals](#) in this chapter.

### **Overpayment Situations**

Certain types of service provision, billing, and documentation errors always result in a determination that an overpayment has occurred. The most common of these are:


- ◆ A service billed to and paid by the Department was not provided. This finding can be the result of several conditions, some of which are:
  - The service could not have been provided to the client as was documented since the client was not present. For example, the client was on an extended home visit or in the hospital and was not present in a group care facility when the service was documented.
  - The qualified person could not have provided the service as documented. For example, the agency's documentation shows that this person was documented to be in more than one place at the same time.
- ◆ A billing error for an individual client was allowed by the Department's payment system, when the provider is not actually eligible to be reimbursed. For example, payment is made for 31 per diem units of group care maintenance for a client for the month of September.
- ◆ The client's individual client service record contains no documentation of provision of a service that was billed to and paid by the Department.



- ◆ The provider has some documentation of service provision, but not all of the documentation required to substantiate each per diem unit of service paid for by the Department in the client's individual client service record, or it was not made available when that record was reviewed.

As detailed above, required documentation includes:

- The client's first and last name;
  - The month, day, and year the service was provided;
  - The first and last name of the persons who provided the service;
  - A clear description of the specific services rendered, including interventions, actions, and activities performed, which support the provision of child welfare services; and
  - Any problem areas or unusual behavior of the client.
  - A description of the client's general progress in regard to the client's care plan done no less than once in every seven calendar days .
- ◆ A provider's care or service plan is not present in the individual treatment record for a foster group care service that lasted 30 or more calendar days after the date of service initiation.
  - ◆ A staff member, determined by licensing staff not to be qualified, has provided a billed foster group care service.
  - ◆ A billed service was provided through a rejected or an undisclosed subcontract.
  - ◆ The provider did not provide the foster group care service on a face-to-face basis. (Teleconferencing does not constitute face-to-face contact.)
  - ◆ The provider did not deliver the service to an eligible individual. That is, the service was not delivered to the identified client (child) or the child was not eligible for FGCS services.
  - ◆ The provider did not provide periodic updates describing the client's progress.
  - ◆ A provider can address client progress in the progress notes every seven calendar days to be in compliance with this requirement.
  - ◆ A unit of child welfare service or group care maintenance was provided from a site that was not appropriately licensed.

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This is not an exhaustive list of all overpayment situations. The Bureau of Purchased Services reviews other potential repayment situations on a case-by-case basis.

Some common types of service provision, billing, or documentation errors that do not result in a determination that an overpayment has occurred are:

- ◆ The Department has not provided a copy of the client's case plan or of form 470-3055, *Referral and Authorization for Child Welfare Services*.

NOTE: While not having a referral form is not itself a basis for an overpayment finding, having a referral form gives assurance that you will be paid if you provide services within the scope of the FGCS program.

Providing services without a referral form creates a risk of not being paid, as the service may not have been authorized, or you may not know:

- The beginning or ending date of the authorization;
- The number of units authorized; or
- The identified special needs of the client.

Should you decide to provide services without a referral form, you will not be excused from meeting all FGCS program requirements.

- ◆ Staff-to-client ratios are not met in the foster group care facility, but all billing requirements are met. The problem may be a licensing or contact compliance issue and should be reviewed with the appropriate staff.

## **Provider Sanctions**

**Legal reference:** 441 IAC 152.10(234) Sanctions Against Providers

Failure to meet the requirements for provider contracting, financial record-keeping, billing and payment, and client record-keeping may subject you to sanctions.

The following sections explain:

- ◆ [Grounds for sanction](#)
- ◆ [Notice of violation](#)
- ◆ [Types of sanctions](#)
- ◆ [Imposition and extent of sanctions](#)
- ◆ [Scope of sanction](#)
- ◆ [Suspension or withholding of payments pending a final determination](#)



### **Grounds for Sanction**

**Legal reference:** 441 IAC 152.10(1) Grounds for Sanction

The Department may impose sanctions against you for any one or more of the following reasons:

- ◆ Failing to provide and maintain the quality of services to children and families within established standards;
- ◆ Failing to meet standards required by the state or federal law for licensure;
- ◆ Failing to correct deficiencies in agency operations after receiving notice of deficiencies from the Department;
- ◆ Engaging in a course of conduct or performing an act that is in violation of state or federal regulations, or continuing that conduct following notification that it must cease;
- ◆ Violating any laws, regulations, or code of ethics governing the conduct of occupations or professions related to the foster group care program;
- ◆ Receiving a formal reprimand or censure by an association of your peers for unethical practice;
- ◆ Being suspended or terminated from participation in another governmental program, such as, but not limited to, worker's compensation or Medicaid remedial services;
- ◆ Committing negligent practice resulting in client death or injury;
- ◆ Failing to disclose or make available to the Department, or its authorized representatives, records of services provided to a client and records of payments made for those services;
- ◆ Engaging in deceptive billing practices;
- ◆ Presenting or causing to be presented for payment any false or deceptive claim for services;
- ◆ Submitting or causing to be submitted false information for the purpose of obtaining greater compensation than which you are legally entitled;
- ◆ Submitting or causing to be submitted false information to meet service authorization requirements;
- ◆ Inducing, furnishing, or otherwise causing the client to receive foster group care services that are not authorized (over-utilization of services);



- ◆ Rebating or accepting a fee or portion of a fee or a charge for referrals of a client;
- ◆ Failing to repay or arrange for the repayment of identified overpayments or other erroneous payments.

### **Notice of Violation or Sanction**

**Legal reference:** 441 IAC 152.10(2) Notice of Violation

Should the Department have information that indicates you may have submitted bills or been practicing in a manner inconsistent with the program requirements, or may have received payment for which you may not be properly entitled, the Department shall notify you of the discrepancies noted. The notice will state:

- ◆ The nature of the discrepancies or violations.
- ◆ The known dollar value of the discrepancies or violations.
- ◆ The method of computing the dollar value.
- ◆ The further actions the Department will take or sanctions the Department will impose.
- ◆ Notification of any actions required of you. You have 15 days after the date of the notice, before the Department action, to show cause why the action should not be taken.

When you have been sanctioned, the Department shall notify as appropriate your applicable professional society, board of registration or licensure, and federal or state agencies of the findings made and the sanctions imposed.

### **Sanctions**

**Legal reference:** 441 IAC 152.10(3)

The Department may impose any or all of the following sanctions:

- ◆ A term of probation from the provision of foster group care services;
- ◆ Termination from provision of foster group care services;
- ◆ Suspension from provision of foster group care services;
- ◆ Suspension or withholding of payments;
- ◆ Review of 100% of your claims, before payment;



- ◆ Referral to the state licensing authority for investigation;
- ◆ Referral to appropriate federal or state legal authorities for investigation or prosecution under applicable federal or state laws;
- ◆ Suspension of your agency or a site foster group care services license;
- ◆ Termination of your agency or a site foster group care services license.

**Imposition, Extent, and Scope of Sanction**

**Legal reference:**    441 IAC 152.10(4)    Imposition and Extent of Sanction  
                                  441 IAC 152.10(5)    Scope of Sanction

The Department will make the decision on the sanctions to be imposed. The Department will take into account the following factors in determining the sanction or sanctions to be imposed:

- ◆ Seriousness of the offense.
- ◆ Extent of violations.
- ◆ History of prior violations.
- ◆ Prior imposition of sanctions.
- ◆ Prior provision of technical assistance.
- ◆ Pattern of failure to follow foster group care program rules.
- ◆ Whether a lesser sanction will be sufficient to remedy the problem.
- ◆ Actions taken or recommended by peer review groups or licensing bodies.

The sanction may be applied to all of your known affiliates. Each decision to include an affiliate is made on a case-by-case basis after giving due regard to all relevant factors and circumstances. The violation, failure, or inadequacy of performance may be imputed to a person with whom the violator is affiliated when the conduct was accomplished in the course of official duty or was effectuated with the knowledge or approval of that person.

Suspension or termination from provision of foster group care services shall preclude you from submitting claims for payment whether personally or through a facility, campus, site, or person to the Department for any services provided after suspension or termination.

No facility, campus, site, or person shall submit claims for payments to the Department for any services or supplies provided by a person within the association who has been suspended or terminated from provision of foster group care services, except for those services provided before the suspension or termination.



When a facility, campus, site, or person violates the grounds for sanction, the Department may suspend or terminate the organization or any other individual person within the organization who is responsible for the violation.

**Suspension or Withholding of Payments Pending a Final Determination**

**Legal reference:** 441 IAC 152.10(6) Suspension or Withholding of Payments Pending a Final Determination

When the Department has notified you of a violation or an overpayment, the Department may:

- ◆ Withhold payments on pending and subsequently received claims in an amount reasonably calculated to approximate the amounts in question.
- ◆ Suspend payment pending a final determination.

When the Department intends to withhold or suspend payments, it will notify you in writing.

**Appeals**

**Legal reference:** 441 IAC 7.8(17A) Opportunity for Hearing  
441 IAC 152.11(234) Appeals of Departmental Actions

As noted in the previous sections of the Provider Handbook, you have the right to appeal decisions regarding the contract for foster group care services. If you are dissatisfied with any action or failure to act on the part of the Department with regard to the contract, you have the right to appeal.

You must appeal in writing. Submit specific information regarding the action or inaction of the Department that is being appealed and the date of the action or time limit for failure to act. You may use the appeal form provided by the Department or send a letter requesting an appeal.

Submit the appeal to your contract monitor or directly to the Department's Appeals Section. You may submit your appeal request on line using the forms available on the Appeals Web page: <http://www.dhs.state.ia.us/dhs/appeals/index.html>



**Time Limits**

**Legal reference:** 441 IAC 7.5(4) Time Limit for Granting Hearing to an Appeal

You must file an appeal within 30 calendar days of:

- ◆ The date of the notice of an action taken by the Department, or
- ◆ The date by which the Department was required to but failed to act.

When the appeal is not filed within these time limits, but is filed within 90 days of the date the action was taken or the date by which the Department was required to but failed to act, the director of the Department must approve whether a hearing shall be granted, based on good cause for late filing.

No hearing will be granted if the appeal is filed more than 90 calendar days from the date the action was taken or the date by which the Department was required to act. Discussion with staff of the Department does not extend these periods.

**Continuation of the Contract**

**Legal reference:** 441 IAC 7.9(217) Continuation of Assistance Pending a Final Decision on Appeal

If you appeal within ten days of the action taken or before the effective date of the notice of the action, your status regarding the contract will not be affected until the appeal decision has been rendered.

EXCEPTION: When the contract has been terminated due to revocation of licensure or imminent danger to clients, the contract is terminated immediately upon notice and shall not be in force during the time of an appeal.

Any discussion with staff of the Department does not extend these periods. Payments made to you before the appeal is decided may have to be refunded if the Department's action is found to have been correct.



## **Hearing**

**Legal reference:** 441 IAC 7.10(217) Procedural Considerations

The Department will determine whether or not an appeal may be granted a hearing.

A hearing need not be granted if the appeal is not eligible to be heard. The Department need not grant a hearing when the basis of the appeal is due solely to a change in state or federal law. If no hearing is granted, you will be notified in writing of the reason and the procedures required to challenge the decision.

If a hearing is granted, you will be notified of the time and place. At the hearing, you may explain the disagreement or you may be represented by an attorney. The Department will not pay for you to be represented by an attorney or for others to present information on your behalf.