

ORP Office of Rules and Procedures	Department of Children and Family Services	
	Index No: 98-27	Issuance Date: September 28, 1998
	Origin of Request: Regional Staff	
	Distribution: Rules and Procedures Book Holders and All Department Staff (X,Z,B,D)	
	Key Words: 89 IAC 337, Service Appeal Process, Moving a Child from a Foster Home or Relative Caretaker Home, Timely and Adequate Notice, Change in Placement	
	Approved by:	

Interpretation

Applicable To: **Foster Parents and Relative Caregivers**

Policy Citation: 337.60(a) - The following persons may appeal decisions made by or on behalf of the Department in accordance with Section 337.70 of this Part:

- (1) families and children who receive child welfare services, either directly from the Department or through its provider agency;
- (2) families and children requesting child welfare services from the Department; or
- (3) foster parents or relative caregivers who have care and custody of a child for whom the Department is legally responsible.

337.60(b) - The appeal may be requested by:

- (1) families and children who receive child welfare services, either directly from the Department or through its provider agency;
- (2) families and children requesting child welfare services from the Department;
- (3) foster parents or relative caregivers who have care and custody of a child for whom the Department is legally responsible;

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(4) the authorized representative of any of the above persons; or

(5) an individual who has been appointed by a court to legally act on behalf of the above parties, including the guardian ad litem for a child;...

337.70 - What may Be Appealed

(a) By Families and Children

Families and Children may appeal the following issues:

(7) a change in the placement of a child;

337.70(b)(1) - Foster parents may appeal the following issues:

(D) A change in the child=s substitute care placement. This does not include placement with the biological or adoptive parent(s), or sibling(s), placements for purposes of adoption as ordered by the court, or return to an individual(s) with whom the child resided prior to entering substitute care.

337.70(b)(2) - Relative caregivers may appeal the following issues:

(D) A change in the child=s substitute care placement. This does not include placement with the biological or adoptive parent(s), placements for purposes of adoption as ordered by the court, or return to an individual(s) with whom the child resided prior to entering substitute care.

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337.90(a)(1) - Persons who may appeal, pursuant to Section 337.60 of this Part, have the right to receive a timely and adequate written notice of Department or provider agency decisions. This notice may be in the form of a completed service plan provided the service plan includes, either in the case plan or through additional documents, all of the elements required in an adequate notice (subsection (c) below). Such notice shall be provided by the entity making the decision. A timely and adequate written notice is required on decisions that are appealable under Section 337.70 of this Part.

337.90(a)(2) - Notices need not be timely in situations where a child is considered to be in imminent risk of harm. In situations where the Department assessed a child to be in imminent risk of harm, the Department may omit timely written notice, but shall send adequate written notice no later than the date of the action that shall include a statement explaining why timely notice was not provided.

337.90(a)(3) - Written notice shall be in the appellant's primary language.

337.90(b) - A written notice is considered timely when mailed within the following time frames:

(2) at least ten calendar days before an action to reduce, suspend or terminate services, or before implementing a critical decision in situations where the Department does not consider the child in imminent risk of harm;

337.90(c) - A written notice is considered adequate when it contains:

- (1) a specific statement of the action the Department or its provider agency intends to take;
- (2) the proposed date for the intended action;
- (3) the reasons and information supporting the action, and specific rules relied upon when taking the action;

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(4) a statement advising the individual of the right to appeal the decision made by the Department or its provider agency or any part of the service plan with which he or she may not agree;

(5) an explanation of the service appeal process available;

(6) a statement that if an appeal of the decision made by the Department or its provider agency is desired, the appeal must be requested in writing within 45 calendar days of the date of notice;

(7) a statement that services will continue unchanged, unless the child is determined to be in imminent risk of harm if services continue unchanged, if an appeal of the decision made by the Department or its provider agency is requested within ten calendar days of the date of notice;

(8) if the issue is subject to emergency review, a statement advising the individual that an emergency review is available upon request;

(9) the name and address of the individual who must be contacted in order to request an appeal of the decision;

(10) a statement that the individual may have a lawyer, or other representative, witnesses, or other individuals having knowledge of the issues in dispute, present throughout the appeal process; and

(11) a statement informing the individual that he or she may submit a brief, written summary which may include additional information for consideration as to why the Department or provider agency should change its decision.

Question: Are there notification requirements that Department and Purchase of Service (POS) Agency staff must follow when moving a child from a foster home or relative caregiver to another substitute care situation?

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Discussion: Part 337, Service Appeal Process, requires that timely and adequate written notice be given to families, children, foster parents, relative caregivers, and the authorized representative of any of the foregoing individuals, including the guardian ad litem, before a child may be moved to another substitute care arrangement unless the child is in imminent risk of harm. A timely written notice is required to allow the individual the opportunity to request an appeal within ten calendar days of the date of the notice so that the placement will remain unchanged during the appeal process. If the individual appeals in writing within ten days after the notice, the child shall not be moved to another placement, pending the outcome of the appeal, unless the child is at imminent risk of physical harm.

In order to provide the full ten days, the Department allows four days for mailing. Therefore, timely notice is **14 calendar days** prior to the planned removal of a child. Form CFS 906, Placement/Payment Authorization Form, includes the Foster Parent Placement Agreement which states that the Department agrees to give at least two weeks (14 days) notice prior to removal of a child. Form CFS 151, Notice of Decision, has been designed to provide adequate notice to those with a right to appeal.

Response: **Whenever Department or POS staff plan to move a child from a foster parent or relative caregiver to another substitute care situation, the foster parent(s) or relative caregiver, family, and child must be notified in writing of the planned move 14 calendar days prior to the move unless the child is determined to be in imminent risk of harm. Fourteen day notice shall also be given to the guardian ad litem. Persons will be appointed in each region to receive complaints from guardians ad litem when they do not receive timely and adequate notice of a decision to change the placement of a child.**