

# RULES AND REGULATIONS

## Title 31—INSURANCE

### INSURANCE DEPARTMENT

#### [ 31 PA. CODE CH. 133 ]

#### Preparation and Filing of Forms for Approval (Fire and Casualty)

The Insurance Department (Department) rescinds Chapter 133 (relating to preparation and filing of forms for approval (fire and casualty)) as set forth in Annex A.

This rescission is made under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 422 and 412) and section 354 of The Insurance Company Law of 1921 (40 P. S. § 477b).

#### *Comments and Response*

Notice of proposed rulemaking was published at 37 Pa.B. 1229 (March 17, 2007) with a 30-day comment period. During the 30-day comment period, no comments were received. During its regulatory review, the Independent Regulatory Review Commission (IRRC) did not submit comments to the Department.

#### *Affected Parties*

The rescission of Chapter 133 affects property and casualty insurers, the State Workmen's Insurance Fund and title insurers.

#### *Fiscal Impact*

#### *State Government*

There will be no increase in cost to the Department due to the rescission of Chapter 133.

#### *General Public*

There will be no fiscal impact to the public.

#### *Political Subdivisions*

The rulemaking will not impose additional costs on political subdivisions.

#### *Private Sector*

The rulemaking will not impose additional costs of insurance companies doing the business of property and casualty insurance in this Commonwealth.

#### *Paperwork*

The adoption of the rulemaking will not impose additional paperwork on the Department or the insurance industry.

#### *Effectiveness/Sunset Date*

This rulemaking becomes effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

#### *Contact Person*

Any questions regarding this final-form rulemaking, should be directed to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. In addition, questions may be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the

proposed rulemaking, on March 2, 2007, to IRRC and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee (Committees). In addition to the submitted final-form regulation, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing these final-form regulations, the Department considered all comments received from IRRC, the Committees and the public. These final-form regulations were deemed approved by the House and Senate Committees on September 6, 2008. In accordance with section 5(g) of the Regulatory Review Act, the final-form regulations were deemed approved by IRRC, effective September 6, 2008.

#### *Findings*

The Commissioner finds that:

(1) Public notice of intention to adopt this rulemaking as set forth in this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of this rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

#### *Order*

The Commissioner, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 31 Pa. Code, are amended by deleting §§ 133.1—133.12 to read as set forth in Annex A.

(b) The Commissioner shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Commissioner shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The regulations rescinded by this order shall take effect upon final publication in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 4961 (September 6, 2008).)

**Fiscal Note:** Fiscal Note 11-234 remains valid for the final adoption of the subject regulations.

#### **Annex A**

#### **TITLE 31. INSURANCE**

#### **PART VIII. MISCELLANEOUS PROVISIONS**

#### **CHAPTER 133. [ Reserved ]**

#### **§§ 133.1—133.12. (Reserved).**

[Pa.B. Doc. No. 08-1799. Filed for public inspection October 3, 2008, 9:00 a.m.]

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[ 55 PA. CODE CHS. 20, 1181, 2380, 2390, 3130, 3140, 3270, 3280, 3290, 3680, 3700, 6400 AND 6500 ]

#### Licensure and Approval Appeal Procedure

##### *Statutory Authority*

The Department of Public Welfare (Department), by this order, adopts the regulations set forth in Annex A under the authority of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1087).

Notice of proposed rulemaking was published at 36 Pa.B. 3539 (July 8, 2006).

##### *Purpose of Regulation*

The purpose of this final-form rulemaking is to rescind the uncodified regulation at 7 Pa.B. 3266 (November 5, 1977) titled Chapter 9003 (relating to licensure/approval appeal procedure) and to replace it with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) (GRAPP) for all facilities and agencies certified by the Department.

The final-form rulemaking is needed to update and simplify the certification appeal process in the Department. The uncodified regulation at 7 Pa.B. 3266 is unnecessary and duplicative of the GRAPP. GRAPP is appropriate for certification appeals. The Department has already begun a chapter-by-chapter replacement of the regulation at 7 Pa.B. 3266 with GRAPP in §§ 2600.12 and 3800.12 (relating to appeals). With regard to the GRAPP 10-day time frame for which to appeal the actions of the staff, however, the Department, after careful consideration, has agreed to continue the 30-day appeal period as noted in Chapter 9003. This 30-day appeal period, however, will not be applied to Chapters 2600 and 3800 (relating to personal care home licensing; and child residential and day treatment facilities). Since those two chapters were not proposed to be amended at 36 Pa.B. 3539, amending those chapters at this time is outside the scope of this rulemaking. The Department amended § 20.82 (relating to written request for appeal) to provide that appeals under Chapters 2600 and 3800 are excluded from the 30-day appeal period exception.

##### *Affected Individuals and Organizations*

Agencies and facilities receiving certification under Chapter 20 are: adult training facilities certified under Chapter 2380; vocational facilities certified under Chapter 2390; county children and youth social service programs certified under Chapter 3130 and Chapter 3140; child day care centers certified under Chapter 3270; group child day care homes certified under Chapter 3280; family day care homes certified under Chapter 3290; private children and youth social service agencies certified under Chapter 3680; foster family care agencies certified under Chapter 3700; psychiatric outpatient clinics under Chapter 5200; partial hospitalization under Chapter 5210; private psychiatric hospitals under Chapter 5300; community residential rehabilitation services for the mentally ill under Chapter 5310; requirements for long-term structured residence licensure under Chapter 5320; community homes for individuals with mental retardation certified under Chapter 6400; family living homes certified under

Chapter 6500 and intermediate care facilities for the mentally retarded under Chapter 6600.

Although not all of the previous chapters are being amended in this final-form rulemaking, the Department finds that the previous facilities are within the scope of Chapter 20 (relating to licensure or approval of facilities and agencies) since they are certified under Articles IX and X of the code. See § 20.2(a) (relating to applicability). The Department is amending those chapters which specifically refer to either Chapter 9003 or Chapter 30 (which originally had been reserved for the codification of Chapter 9003). In addition, the appeal procedures for Chapters 5200, 5210, 5300, 5310, 5320 and 6600 will also be subject to GRAPP under § 20.82, which is being amended in this final-form rulemaking.

##### *Accomplishments and Benefits*

GRAPP is the officially codified and recognized practice and procedure for administrative agencies within this Commonwealth. There are currently unequal and differing appeal procedures within the types of facilities certified by the Department. This final-form rulemaking provides consistency in the appeal process across all Department-certified human service programs. Currently, attorneys for appellants providing multiple types of human services would have to be versed in both the uncodified regulation at 7 Pa.B. 3266 and GRAPP to represent their clients' best interest.

The existence of a special certification appeal regulation imposes an unnecessary burden on appellants' counsel because its applicability is limited to some, but not all of the Department's certification appeals. Since most attorneys experienced in administrative law are familiar with GRAPP, but not the uncodified regulation at 7 Pa.B. 3266, considerations of efficiency and fairness to appellants imply that the consistency achieved by repeal of the regulation at 7 Pa.B. 3266 is in the public interest.

##### *Fiscal Impact*

The final-form rulemaking saves provider agencies and county agencies attorney's fees, since their attorneys will not have to familiarize themselves with the uncodified regulation at 7 Pa.B. 3266 and, instead, will be able to rely upon the GRAPP.

Upon adoption, the Department will no longer have to individually copy and mail out the regulation at 7 Pa.B. 3266 to providers, thereby, increasing efficiency through a decrease in printing and mailing costs because GRAPP is codified and generally available.

There will be no fiscal impact on the general public anticipated as a result of the adoption of this rulemaking.

##### *Paperwork Requirements*

There will be a reduction in paperwork by eliminating the printing and mailing of the uncodified regulation at 7 Pa.B. 3266.

##### *Discussion of Comments and Major Changes*

Following is a summary of the major comments received within the public comment period following publication of the proposed rulemaking and the Department's response to those comments. Comments were received from five commentators during the public comment period and the Independent Regulatory Review Committee (IRRC). Comments received were from two county children and youth agencies, one from a provider advocacy group and two comments were from the Pennsylvania Children and Youth Administrators, Inc. A summary of major changes from proposed rulemaking is also included.

*General—Applicability*

IRRC questioned whether the Department has considered codifying Chapter 9003.

*Response*

The Department has not considered codifying Chapter 9003 since it is archaic, and the Department finds there is no need for a specialized set of administrative appeal regulations. GRAPP is a sufficient, existing and generally utilized set of rules for administrative appeals. See 1 Pa. Code Part II. Since the publishing of the uncodified regulation at 7 Pa.B. 3266 in 1977, it has been rare for either the Bureau of Hearing and Appeals (BHA) or the parties to certification appeals to reference the uncodified regulation. Instead, the current practice is to default to GRAPP.

*General—Appeal Process*

Two of the commentators and IRRC noted that GRAPP contains many procedures that may not be related to licensure or approval appeals. Pennsylvania Association of Resources for People with Mental Retardation (PAR) specifically commented that the uncodified regulation at 7 Pa.B. 3266 was developed for “the specific purpose of establishing a procedure for entities . . . to appeal Departmental decisions which affect the status of that Certificate of Compliance.” Continuing to employ the procedures under the uncodified regulation will continue to promote clarity, consistency and uniformity in resolving licensure issues and deciding those appeals.

PAR further commented that GRAPP’s provisions are general in nature and apply to many different types of proceedings. Therefore, the adoption of GRAPP would serve to confuse the appeals procedures, rather than clarify the procedures.

PAR also commented that Medical Assistance (MA) providers and their counsel must familiarize themselves with specific MA provider appeal regulations. If MA providers must use specific appeal procedures, providers and counsel should continue to use the specific uncodified regulations, Chapter 9003, for certification appeals.

*Response*

Since the publishing of it in 1977, it has been rare for either the BHA or the parties to certification appeals to reference the uncodified regulation. Instead, the current practice is to default to GRAPP in most cases. Since the current practice is to default to GRAPP, there is not a consistency and uniformity issue in regards to the resolution of licensure issues.

Using GRAPP updates and simplifies the certification appeal process in the Department since it is a sufficient, existing and generally utilized set of rules for administrative appeals.

Finally, GRAPP has applicable procedures for certification appeals. Although GRAPP may contain some provisions that might rarely, if ever, apply to these types of appeals, other general rules of practice and procedure also contain rarely utilized provisions. Even the uncodified regulation has unintelligible and unclear provisions. See §§ 9003.13.1(C)(3) and 9003.13.3 (relating to decision of the hearing officer; and optional review by the Secretary).

*General—Certification*

The Department of Health requested that the Department remove all references to the word “certification” in the regulation since the certification of health care facilities is a specific term defined in Federal law and regulation. The Department of Health is the survey agency and is responsible for making certification decisions and recommendations.

*Response*

The term “certification” is not specific to the Department of Health or the Federal government. Further, the term “certificate of compliance” has been used by the Department since the publishing of the uncodified regulation at 7 Pa.B. 3266. Chapter 20 (relating to licensure or approval of facilities and agencies) also uses the term “certificate of compliance.” Chapter 20 has been in effect since August 19, 1985. See 15 Pa.B. 2648 (July 20, 1985). Finally, neither the annex of the proposed rulemaking at 36 Pa.B. 3539 nor the annex of this final-form rulemaking contain the term “certification;” therefore, the recommended deletion of the term “certification” is outside the scope of this rulemaking.

*General—Time frame for appeal to be heard*

Two commentators urged the Department to prescribe a 60-day time frame for an appeal to be heard by BHA and a 30-day time frame for an adjudication to be issued by the Bureau. One commentator questioned how the responsiveness to appeals compare for the agencies already under GRAPP and the agencies not covered under GRAPP.

*Response*

The question of whether there should be any time frames for BHA to hold a hearing and issue an adjudication is outside the scope of this rulemaking. Therefore, the Department has not prescribed any time frames for BHA’s hearing of an appeal or issuing an adjudication. Further, with rare exception, a facility is allowed to continue to operate pending the outcome of its administrative appeal. However, there may be times when special circumstances warrant a more rapid adjudication by BHA. The parties are free to seek expedited adjudication in those cases.

*§ 35.20 (relating to appeals from action of the staff)*

The commentators noted the 10-day appeal period allotted under the GRAPP is simply too short a time frame for weighing the ramifications of an action taken by the Department and determining whether to appeal. IRRC recommended that the Department consider preserving the 30-day appeal period currently allowed under Chapter 9003.

*Response*

After careful consideration, the Department has agreed to continue the 30-day appeal period as noted in Chapter 9003.

*1 Pa. Code § 35.20 (relating to appeals from action of the staff)*

PAR and IRRC noted that the GRAPP appears to bypass BHA, as it provides that appeals of staff action be taken directly to the agency head. They questioned whether it was the Department’s intent that these appeals be taken directly to the Secretary.

*Response*

By utilizing GRAPP, the Department does not intend to bypass BHA under 1 Pa. Code § 35.20. Although 1

Pa. Code § 35.20 provides that an action may be appealed to the agency head, the Department will internally forward these appeals to BHA, as the designee of the agency head.

*§ 3140.17 (relating to review of county plans and budgets)*

One commentator expressed concern that the proposed changes do not address a primary need of counties for clarification of how and when county children and youth services agencies should appeal adverse decisions on needs-based plan and budget by the Department.

*Response*

The reference to Chapter 30 in § 3140.17 is being deleted since the uncodified regulation never applied to appeals under Chapter 3140 (relating to planning and financial reimbursement requirements for county and children and youth social service programs). Chapter 3140 applies to the development and submission of social services plans and budget estimates and the reimbursement of expenses incurred by the county for children and youth social services. See 55 Pa. Code § 3140.1 (relating to applicability). The uncodified regulation, however, provided the licensure/approval appeal procedure for facilities certified by the Department. Therefore, this final-form rulemaking does not change the appeal procedures under Chapter 3140. As specifically set forth in § 3140.17(e), counties may appeal under 2 Pa.C.S. §§ 501—508 and 701—704 and Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

*Regulatory Review Act*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on July 21, 2008, the Department submitted a copy of this final-form rulemaking to IRRC and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In compliance with the Regulatory Review Act, the Department also provided the Committees and IRRC with copies of all public comments received, as well as other documentation.

In preparing the final-form rulemaking, the Department reviewed and considered comments from the Committees, IRRC and the public.

In accordance with section 5.1(j.1) and (j.2) of the Regulatory Review Act, this final-form rulemaking was deemed approved by the Committees on August 11, 2008. IRRC met on August 21, 2008, and approved the final-form rulemaking.

In addition to submitting the final-form rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

*Findings*

The Department finds that:

(1) Public notice of intention to amend the administrative regulation, by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations in 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of these final-form regulations in the manner provided by this order is necessary and appropriate for the administration and enforcement of 2 Pa.C.S. §§ 501—508 and 701—704 and Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1087).

*Order*

The Department acting under 2 Pa.C.S. §§ 501—508 and 701—704 and Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1087) orders that:

(a) The regulations of the Department, 55 Pa. Code Chapters 20, 1181, 2380, 2390, 3130, 3140, 3270, 3280, 3290, 3680, 3700, 6400 and 6500, are amended by amending §§ 20.2, 20.82, 1181.561, Appendix N, 2380.12, 2390.12, 3130.82, 3140.17, 3270.12, 3280.12, 3290.13, 3680.14, 3700.72, 6400.12 and 6500.13 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Secretary of the Department shall submit this order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect November 3, 2008.

ESTELLE B. RICHMAN,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 4961 (September 6, 2008).)*

**Fiscal Note:** Fiscal Note 14-504 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 55. PUBLIC WELFARE**

**PART I. DEPARTMENT OF PUBLIC WELFARE**

**Subpart C. LICENSING/APPROVAL**

**CHAPTER 20. LICENSURE OR APPROVAL OF FACILITIES AND AGENCIES**

**GENERAL PROVISIONS**

**§ 20.2. Applicability.**

(a) This chapter applies to facilities and agencies subject to licensure or approval under Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1080).

(b) This chapter does not apply to family day care homes that are registered under the authority of Article X of the Public Welfare Code, except for appeals as provided in § 20.82 (relating to written request for appeal).

(c) This chapter applies in addition to applicable program licensure or approval of regulations.

**APPEALS**

**§ 20.82. Written request for appeal.**

(a) The legal entity may appeal a Departmental decision specified in § 20.81 (relating to decisions that may be appealed) under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Except for facilities licensed or approved under Chapters 2600 and 3800 (relating to personal care home licensing; and child residential and day treatment facilities), the legal entity may appeal by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**PART III. MEDICAL ASSISTANCE MANUAL  
CHAPTER 1181. NURSING FACILITY CARE  
Subchapter D. NURSING HOME  
REFORM—STATEMENT OF POLICY**

**APPEALS OF ADVERSE DETERMINATIONS**

**§ 1181.561. Process to appeal adverse determinations in the preadmission screening program.**

(a) Section 1396r(e)(7)(F) of the Social Security Act (42 U.S.C.A. § 1396r(e)(7)(F)) provides: "Each State, as a condition of approval (of its State Plan), effective January 1, 1989, must have in effect an appeals process for individuals adversely affected by determinations under (42 U.S.C.A. §§ 1396r(e)(7)(A) and 1396r(e)(7)(B) (relating to the pre-admission screening program and to the annual resident review program))."

(b) An applicant—including a legal or personal representative acting on behalf of the applicant—for admission to a nursing facility participating as a provider in the MA Program has the right to appeal from an adverse determination made as part of the preadmission screening program established under OBRA-87. The Department currently has regulations in effect which provide for appeals in Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

(c) Under Chapter 275, an applicant for admission to a nursing facility who is seeking or is already eligible for MA benefits has the right to appeal to the Department's Office of Hearings and Appeals with respect to a decision affecting the applicant's rights to receive Program benefits. Chapter 275 will be applied to appeals of adverse determinations in the OBRA-87 preadmission screening process where the appeals are filed by or on behalf of individuals who are seeking or receiving MA.

(d) The OBRA-87 preadmission screening process can also adversely affect an applicant for admission who is not seeking or receiving MA. Appeals by or on behalf of those individuals shall still be filed with the Office of Hearings and Appeals. These appeals will be heard under the authority established in 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

**APPENDIX N. RIGHT TO APPEAL AND FAIR HEARING**

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**PART II. STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES**

All residents (including any legal or personal representative acting on behalf of the resident) of nursing facilities (other than intermediate care facilities for the mentally retarded) which are enrolled as providers in the MA Program shall have the right to appeal from any decision to transfer or discharge that resident. The Department currently has regulations which provide for such appeals.

Under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings), residents who are eligible for MA benefits have the right to appeal to the Department's Office of Hearings and Appeals with respect to any decision affecting their rights to receive Program benefits. These regulations will be applied to appeals of decisions with respect to transfers and discharges.

The OBRA-87 requirements, however, also affect persons who are not eligible for MA benefits. The Department currently has regulations which provide for appeals by such persons at 1 Pa. Code Part II (relating to general rules of administrative practice and procedure). Such appeals must still be filed with the Department's Office of Hearings and Appeals.

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**PART IV. ADULT SERVICES MANUAL**

**Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES**

**CHAPTER 2380. ADULT TRAINING FACILITIES  
GENERAL REQUIREMENTS**

**§ 2380.12. Appeals.**

(a) Appeals related to the Department's approval or licensure shall be made in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**CHAPTER 2390. VOCATIONAL FACILITIES  
GENERAL REQUIREMENTS**

**§ 2390.12. Appeals.**

(a) Appeals related to the Department's approval or licensure shall be made under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**PART V. CHILDREN, YOUTH AND FAMILIES  
MANUAL**

**Subpart C. ADMINISTRATION AND FISCAL  
MANAGEMENT**

**ARTICLE II. COUNTY-ADMINISTERED SERVICES  
CHAPTER 3130. ADMINISTRATION OF COUNTY  
CHILDREN AND YOUTH SOCIAL SERVICE  
PROGRAMS**

**REQUIREMENTS FOR FOSTER CARE PROGRAMS  
AND CHILD CARE FACILITIES OPERATED BY A  
COUNTY AGENCY**

**§ 3130.82. Appeals.**

(a) The county agency has the right to appeal the Department's decisions related to licensure or approval under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**CHAPTER 3140. PLANNING AND FINANCIAL REIMBURSEMENT REQUIREMENTS FOR COUNTY CHILDREN AND YOUTH SOCIAL SERVICE PROGRAMS**

**Subchapter A. PRELIMINARY PROVISIONS  
PLAN REQUIREMENTS**

**§ 3140.17. Review of county plans and budgets.**

\* \* \* \* \*

(e) The county may appeal the Department's determination reached in accordance with subsection (c) under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

**Subpart D. NONRESIDENTIAL AGENCIES, FACILITIES AND SERVICES**

**ARTICLE I. LICENSING/APPROVAL**

**CHAPTER 3270. CHILD DAY CARE CENTERS  
GENERAL REQUIREMENTS**

**§ 3270.12. Appeals.**

(a) Appeals related to the Department's approval or licensure decisions shall be made under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) An operator may appeal a Departmental decision relating to the status of a certificate of compliance of a facility owned or operated by the legal entity.

(d) The Department will include information relative to appeal procedures when notifying operators of one or more of the following decisions:

- (1) The denial of a certificate of compliance.
- (2) The nonrenewal of a certificate of compliance.
- (3) The revocation of a certificate of compliance.
- (4) The issuance of a provisional certificate of compliance.
- (5) The establishment of a period for which a provisional certificate of compliance is issued.
- (6) The reduction of the maximum facility capacity.
- (7) The denial of an increase in facility capacity.
- (8) The limiting or precluding admission of persons into the facility.

(e) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**CHAPTER 3280. GROUP CHILD DAY CARE HOMES  
GENERAL REQUIREMENTS**

**§ 3280.12. Appeals.**

(a) Appeals related to the Department's approval or licensure decisions shall be made under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative

Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) An operator may appeal a Departmental decision relating to the status of a certificate of compliance of a facility owned or operated by the legal entity.

(d) The Department will include information relative to appeal procedures when notifying operators of one or more of the following decisions:

- (1) The denial of a certificate of compliance.
- (2) The nonrenewal of a certificate of compliance.
- (3) The revocation of a certificate of compliance.
- (4) The issuance of a provisional certificate of compliance.
- (5) The establishment of a period for which a provisional certificate of compliance is issued.
- (6) The reduction of the maximum facility capacity.
- (7) The denial of an increase in facility capacity.
- (8) The limiting or precluding admission of persons into the facility.

(e) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**CHAPTER 3290. FAMILY CHILD DAY CARE HOMES  
GENERAL REQUIREMENTS**

**§ 3290.13. Appeals.**

(a) Appeals related to the Department's registration decisions shall be made under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) A facility's operator may appeal a Departmental decision relating to the status of the facility's certificate of registration.

(d) The Department will include information relative to appeal procedures when notifying operators of one or more of the following decisions:

- (1) Denial of a certificate of registration.
- (2) Failure to renew a certificate of registration.
- (3) Revocation of a certificate of registration.
- (4) Limiting or precluding admission of persons into the facility.

(e) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**Subpart E. RESIDENTIAL AGENCIES, FACILITIES AND SERVICES**

**ARTICLE I. LICENSING/APPROVAL**

**CHAPTER 3680. ADMINISTRATION OF PRIVATE CHILDREN AND YOUTH SOCIAL SERVICES AGENCY**

**GENERAL RESPONSIBILITIES OF THE LEGAL ENTITY**

**§ 3680.14. Appeals.**

(a) The legal entity has the right to appeal the Department's decisions related to licensure or approval under 2

Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) The legal entity shall begin the appeal process by filing a written appeal with the Director, Office of Hearings and Appeals, Department of Public Welfare, Post Office Box 2675, Harrisburg, Pennsylvania 17105.

(d) The appeal must be postmarked no later than 30 calendar days following the date of notice regarding the agency's licensure or approval status.

(e) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**CHAPTER 3700. FOSTER FAMILY CARE AGENCY  
REQUIREMENTS FOR FFCA APPROVAL OF  
FOSTER FAMILIES**

**§ 3700.72. Foster family approval appeals.**

(a) The FFCA shall give written notice to each applicant of its decision to approve, disapprove or provisionally approve the foster family. The written note shall inform parents that they may appeal the FFCA's decision to disapprove or provisionally approve the foster family.

(b) Foster parents who wish to appeal an FFCA decision to disapprove or provisionally approve the foster family shall submit to the FFCA a written appeal. The appeals are subject to 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(c) Appeals related to the Department's approval shall be made by filing a petition within 30 days after service of notice of the action.

(d) Upon receipt of the foster parent appeal, the FFCA shall date stamp the appeal. The FFCA shall review the appeal and determine if steps can be taken to resolve the appeal without a hearing. If, after considering the appeal, the FFCA is unable to resolve issues of disagreement, the appeal shall be sent to the Office of Hearings and Appeals, Post Office Box 2675, Harrisburg, Pennsylvania 17105 within 15 calendar days of the date stamp.

(e) Subsection (c) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**PART VIII. MENTAL RETARDATION MANUAL**

**Subpart E. RESIDENTIAL  
AGENCIES/FACILITIES/SERVICES**

**ARTICLE I. LICENSING/APPROVAL**

**CHAPTER 6400. COMMUNITY HOMES FOR  
INDIVIDUALS WITH MENTAL RETARDATION**

**GENERAL REQUIREMENTS**

**§ 6400.12. Appeals.**

(a) Appeals related to the Department's licensure shall be made in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**CHAPTER 6500. FAMILY LIVING HOMES**

**GENERAL REQUIREMENTS**

**§ 6500.13. Appeals.**

(a) Appeals related to the Department's licensure or waiver decisions shall be made in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's licensure or waiver decisions shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

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