
EMERGENCY RULE

TITLE 5 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION Division 25 – Office of Childhood Chapter 200 – Child Care Subsidy

EMERGENCY RULE

5 CSR 25-200.095 Child Care Hearings

PURPOSE: This rule establishes an appeals and hearings process for Child Care Subsidy eligibility within the Department of Elementary and Secondary Education.

*EMERGENCY STATEMENT: This emergency rule provides a process for appeal when an applicant's eligibility for child care subsidy has been denied or when there has been a change or overpayment for a child care subsidy participant. In the 2025 budget, child care subsidy appeals were transferred to the Department of Elementary and Secondary Education, and the Department of Elementary and Secondary Education does not have a regulation for the procedures to be used in these hearings. This emergency rule is necessary to protect a compelling government interest in providing an appeals process to participants and applicants of the child care subsidy program. As a result, Department of Elementary and Secondary Education finds a compelling governmental interest, which requires this emergency action. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Department of Elementary and Secondary Education believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed January 7, 2025, becomes effective January 23, 2025, and expires July 21, 2025.*

(1) The following procedures apply for any child care appeals from a participant/applicant whose child care subsidy eligibility has been denied or changed or who wishes to contest an overpayment.

(2) Content of Appeals. All appeals must –

(A) Be in writing;

(B) Include:

1. The full name, address, email address, and telephone number of the person appealing (petitioner), and any attorney representing the participant/applicant;

2. A written description of the specific grounds for the appeal; and

3. As far as practical, facts in numbered paragraphs stating the relief sought;

(C) Be signed by participant/applicant or participant/applicant's legal counsel; and

(D) Be mailed to DESE Counsel, Department of Elementary and Secondary Education, PO Box 480, Jefferson City, MO 65102-0680 or emailed to Counsel@dese.mo.gov.

(3) Hearing Officers.

(A) A hearing officer appointed by the Commissioner of Education shall hear appeals from any child care subsidy participant/applicant whose child care subsidy eligibility has been denied or changed or who wishes to contest an overpayment.

(B) The hearing officer shall conduct all hearings in accordance with chapter 536, RSMo.

(C) The decision shall include, or be accompanied by, findings of fact and conclusions of law. The findings of fact

shall be stated separately from the conclusions of law and shall include a concise statement of the findings on which the agency bases its order.

(D) The hearing officer shall deliver or mail their decision, findings of fact, and conclusions of law to each party, or his/her attorney of record. The decision of the hearings officer shall be the final decision of the Department of Elementary and Secondary Education (department).

(4) Hearings.

(A) Hearings may be in person or by video conference.

(B) Notice.

1. The department shall serve upon all parties the notice of the place, date, and time upon which it will hold the hearing on the appeal. The department will send the notice by certified mail, by personal delivery, or by email.

2. The department shall provide at least ten (10) business days' notice to the parties that it will hold a hearing on the matters raised in the appeal.

3. The notice shall advise the parties to file all documents by mailing them to DESE Counsel, Department of Elementary and Secondary Education, PO Box 480, Jefferson City, MO 65102-0480 or to Counsel@dese.mo.gov.

(C) Motions.

1. Either party may file a motion to request a delay of the hearing, if the party shows good cause. The hearing officer has discretion to continue the hearing date upon notice to the parties.

2. Either party may file a motion to hold a hearing in person or by video conference. A party should file this motion at least five (5) business days before the start of the hearing.

3. Either party may file a motion for a witness to appear by telephone or video conference. A party should file this motion at least three (3) business days before the start of the hearing.

4. The hearing officer will entertain other motions as necessary.

(D) Video conference Hearings.

1. The hearing officer may hold hearings via a video conference platform. The hearing officer will contact the parties if the hearing is to be held in this manner.

(E) Exhibits.

1. The department shall send the administrative record to the participant/applicant at least five (5) business days in advance of the hearing. The hearing officer shall admit the administrative record into the hearing record with no further process.

2. The parties are required to send any other exhibits to the hearing officer and the opposing parties at least five (5) business days in advance of the hearing.

3. If the hearing is to be held via video conference, each party is responsible for providing all exhibits to all parties of record and the hearing officer electronically.

(F) Participant/applicant.

1. The burden shall be on the participant/applicant to prove:

A. The department's denial or change of child care subsidy eligibility was inconsistent with applicable laws and regulations;

B. The participant/applicant did not receive an overpayment, as the department contends; or

C. The department has calculated an overpayment incorrectly.

(G) The department may present testimony, documents, or other evidence to rebut evidence presented by the participant/applicant.

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*AUTHORITY: section 161.092,RSMo 2016, and sections 208.044, 208.046, 210.027, RSMo. 2024. Emergency rule filed Jan. 7, 2025, effective Jan. 23, 2025, expires July 21, 2025. An emergency rule and a proposed rule covering this same material will be published in the Feb. 18, 2025, issue of the **Missouri Register**.*

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.