**606 CMR 10.10**

**10.10: Denial and/or Termination of Subsidized Child Care Services**

(3) Notice. Whenever a subsidy is being denied or terminated, the EEC or the Subsidy Administrator must give the Parent(s) written notice of the denial or termination and the option to request a review of the action through the EEC review process and to request continuation of subsidized child care services, if applicable, pending the outcome of the review and, if necessary, Informal Hearing. The EEC or the Subsidy Administrator shall use a notice provided or prescribed by the EEC and shall provide the Parent with the notice immediately upon the decision to deny subsidized child care services or at least 14 calendar days before the effective date of the termination. At a minimum, the notice shall include the following:

(a) a clear and plain statement of the action to be taken;

(b) the effective date of the action;

(c) an explanation of the reason(s) for the action;

(d) the regulation or other legal authority on which the action is based;

(e) contact information to obtain further information related to the action;

(f) an explanation of the right to request a review;

(g) an explanation of the continuation of subsidized child care services that may be available pending the outcome of the review and, if necessary, Informal Hearing;

(h) a copy of a document explaining the request for review and Informal Hearing process;

(i) the circumstances under which subsidized child care services may continue pending the outcome of a review, if applicable;

(j) a notice of the right to be represented during the request for review and Informal Hearing process; and

(k) contact information for the EEC unit that receives appeal requests.

All notices required by EEC regulation and policy will be deemed adequately served if they are mailed via regular mail to Parents at their last known address, or if they are otherwise mailed or delivered to Parents based on the contact information that they maintain with their Subsidy Administrator.

**(4) Continuation of Subsidized Child Care Services Pending Request for Review and Request for Informal Hearing**

1. Subsidized child care services shall continue after receipt of a notice of termination or denial at Reauthorization pending the outcome of the request for review and, if necessary, Informal Hearing if the Parent:

1. submits to the EEC a request for review, which shall serve as a request for the continuation of subsidized child care services, prior to the effective date of the termination or within 30 days of the denial at Reauthorization of the subsidized child care services;

2. takes appropriate action to resolve any unpaid fee balance under 606 CMR 10.12(1) which caused the notice of termination prior to the effective date of the notice;

3.at all times during the review process, including any Informal Hearing, if necessary, keeps all undisputed fee payments current; and

4. at all times during the review process, including any Informal Hearing, if necessary, ensures that the child continues to attend care in accordance with the child's Authorization.

(b) If the denial was issued at an initial Authorization, subsidized child care services shall not be available during the request for review or Informal Hearing process.

(c) Subsidized child care services that are continued pending the outcome of a request for review or an Informal Hearing, and any unpaid fee balance, are subject to recoupment by the Department in cases where fraud is substantiated.

**(5) RESERVED**

**606 CMR 10.11: Review Process**

(7) Preliminary Review.

(d) Decisions.

1. How Made. The EEC Review Officer will review all information submitted by the Parent and Subsidy Administrator and seek clarification from the parties, if necessary. The Review Officer may take administrative notice of general, technical, or scientific facts within their specialized knowledge and may use their experience and specialized knowledge in the evaluation of the evidence presented. The EEC Review Officer may also take administrative notice of any public records or information from other local, state, and/or federal agencies.

2. When Made. Within 60 Days of EEC's receipt of the request for review for a termination or denial at Reauthorization, or as promptly as administratively feasible, the EEC Review Officer shall issue a written decision to the Parent and the Subsidy Administrator which upholds, reverses, or modifies the Subsidy Administrator's decision, action or inaction. Within 60 days of EEC’s receipt of the request for review for denial at initial Authorization, the EEC Review Officer shall issue a written decision to the Parent and the Subsidy Administrator which upholds, reverses, or modifies the Subsidy Administrator’s decision.

3. When Implemented. Unless 606 CMR10.11(8)(b) applies, the EEC Review Officer's decision will be implemented in accordance with the timelines set forth in the decision.

4. Notice of Right to Appeal. The Review Officer's written decision shall inform the Parent of the Parent's right to appeal the written decision by requesting an Informal Hearing in accordance with 606 CMR 10.11(8). If the Parent does not appeal, the Review Officer's written decision shall become the EEC's final agency decision and, if applicable, subsidized child care services shall be terminated immediately.

(8) Informal Hearing. After a Preliminary Review, aggrieved Parents may appeal the EEC Review Officer's decision by requesting an Informal Hearing.

(d) Hearings.

1. Timing. Within 60 Days of the EEC’s receipt of the request for an Informal Hearing, the EEC shall hold the hearing.

2. Procedure. The Informal Hearing shall be conducted in accordance with [801 CMR 1.02](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1012167&cite=801MADC1.02&originatingDoc=I256733C47CF644B8B5B01F39BD106C56&refType=VP&originationContext=document&transitionType=DocumentItem&ppcid=8bdc167850e64b4fb6c5836a9405c2a3&contextData=(sc.Document)): *Informal/Fair Hearing Rules.* The General Counsel may appoint an EEC Hearing Officer to preside over the hearing.

3. Adjustment of Matters Relating to the Hearing. The EEC Hearing Officer may make informal disposition of the adjudicatory proceeding by stipulation, agreed settlement, consent order, or default, and may limit the issues to be heard, in accordance with [M.G.L. c. 30A, § 10](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000042&cite=MAST30AS10&originatingDoc=I256733C47CF644B8B5B01F39BD106C56&refType=LQ&originationContext=document&transitionType=DocumentItem&ppcid=8bdc167850e64b4fb6c5836a9405c2a3&contextData=(sc.Document)).

4. Submission without a Hearing. The Parent may elect to waive a hearing and to submit any documents without appearing at the time and place designated for the hearing. Submission of a case without a hearing does not relieve the parties from supplying all documents supporting their claims or defenses. Affidavits and stipulations may be used to supplement other documentary evidence in the record.

5. Location. The Informal Hearing shall be held in the EEC's Central Office, or a location designated by the EEC. The Parent may request that the Informal Hearing be held at an EEC regional office more conveniently located to the Parent or be scheduled via telephone or via a virtual, video enabled platform.

6. Hearing Record. The EEC Hearing Officer shall ensure that a record is made of the hearing. All documents and other evidence offered and accepted shall become part of the record. The record shall also include the request for review, the request for Informal Hearing and the decision by the EEC Review Officer.

7. Burden of Proof. The EEC Hearing Officer's decision shall be supported by substantial evidence presented at the hearing.

(f) Decisions. If the denial was issued at Reauthorization, or if subsidized care was terminated, the EEC Hearing Officer shall issue the written decision in accordance with [M.G.L. c. 30A, § 11(8)](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000042&cite=MAST30AS11&originatingDoc=I256733C47CF644B8B5B01F39BD106C56&refType=SP&originationContext=document&transitionType=DocumentItem&ppcid=8bdc167850e64b4fb6c5836a9405c2a3&contextData=(sc.Document)" \l "co_pp_23450000ab4d2) within 60 days of conducting the Informal Hearing or as soon as administratively feasible. If the denial was issued at an initial Authorization, the EEC Hearing Officer shall issue the written decision in accordance with [M.G.L. c. 30A, § 11(8)](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000042&cite=MAST30AS11&originatingDoc=I256733C47CF644B8B5B01F39BD106C56&refType=SP&originationContext=document&transitionType=DocumentItem&ppcid=8bdc167850e64b4fb6c5836a9405c2a3&contextData=(sc.Document)#co_pp_23450000ab4d2) within 60 days of conducting the Informal Hearing. If the EEC Hearing Officer upholds the decision to deny subsidized care, that decision will become the EEC's final agency decision and, if applicable, subsidized child care services shall be terminated immediately