Legislative reforms to strengthen program integrity established a suspension process for contractors if there is an imminent threat to the health or safety of participants or the public. There is a slight variation in the process for suspending a contractor for an imminent threat to the health or safety of participants or the public depending on if the Special Nutrition Programs (SNP) staff discover the problem or if a State or local health or licensing authority discovers the problem.

HEALTH OR LICENSING AUTHORITY DISCOVERS THE PROBLEM

When a state or local health or licensing authority notifies SNP of an imminent health or safety threat, we send the contractor a Notice of Suspension. The notice:

- includes all serious deficiencies that constitute the imminent threat;
- identifies the responsible principals and responsible individuals;
- informs the contractor that its participation, including all CACFP payments, is suspended as of the date of the notice;
- proposes to terminate the contractor’s agreement for cause;
- proposes to disqualify the contractor, the responsible principals and responsible individuals; and
- outlines the procedures for appealing the suspension, proposed termination and proposed disqualification.

The Notice of Suspension is sent to:

- the Executive Director of the contractor’s organization;
- the Chairman of the Board of Directors; and
- all responsible principals and responsible individuals

The Executive Director is responsible for the organization’s day-to-day operations, The Board Chair, or equivalent, is responsible for the contractor’s overall operation. They may not always be directly responsible for a specific serious deficiency; however, by virtue of their positions, they have overall responsibility and accountability for the contractor. If the contractor does not have a Board of Directors or an Executive Director, the notices will be sent to the individual or individuals that constitute the top management of the organization. This might be an owner, supervisor, department head, president, manager, chief or tribal chairman, or a base commander. We will notify those responsible principals and responsible individuals in the organization who have been determined responsible or accountable for the serious deficiency.

continued
Suspension Appeals

The contractor, responsible principal and/or responsible individual may appeal any or all of the three adverse actions:

- The suspension,
- The proposed termination, and
- The proposed disqualification.

If the hearing official upholds our decision, we will send a Notice of Termination and Disqualification to the contractor and responsible principals and individuals. The notice informs the contractor and responsible principals and responsible individuals that:

- the contractor’s agreement is terminated for cause, and
- the contractor, responsible principals and responsible individuals are disqualified and placed on the National Disqualified List.

If the hearing official overrules any of our decisions, we will send a rescission notice. This notice:

- removes the contractor’s suspension effective the date of the hearing official’s decision;
- informs the contractor that the contractor’s agreement is not terminated;
- informs the contractor and responsible principals / individuals that neither the contractor, nor the responsible principals or responsible individuals are disqualified; and,
- informs the contractor that the contractor can claim for eligible meals served during the suspension.

Note: If either the contractor, responsible principal or responsible individual does not request an appeal within the time allotted in the written notice, we will proceed with the termination of the contractor’s SNP Agreement and disqualification of the contractor’s organization, responsible principals and responsible individuals.

SNP DISCOVERS THE PROBLEM

If SNP staff determine there is an imminent health or safety threat, we will inform the health or licensing authority and take action consistent with the authority’s recommendation. In most instances we will suspend the contractor’s participation in the CACFP. If so, we will follow the suspension, notification and appeal procedures outlined above.

If you have any questions regarding this Policy Alert, please contact your Area Program Office.