



**CHILDCARE AND PARENT SERVICES (CAPS)
Georgia's Subsidy Program**

CAPS Policy – Administrative Hearings	No.: CAPS/00-18	Effective Date: 10/01/2016
		Revised: 05/15/2020
		Revision Effective: 05/15/2020

LEGAL AUTHORITY: OCGA § 50-13-1 et seq., 7 CFR 226.6(k); Federal Register: 45 Code of Federal Regulation (CFR) 98 and 99.

Cross Reference/See Also: CAPS Parent Rights and Responsibilities Policy (CAPS/00-3), CAPS Eligibility Requirements Policy (CAPS/00-6), CAPS Program Integrity Policy (CAPS/00-16), CAPS Child Care Providers Rights and Responsibilities (CAPS/00-12)

Note: Definitions of words or phrases in bold are located in [Definitions and Acronyms](#). Only the first occurrence of the defined words or phrases are bolded.

18 ADMINISTRATIVE HEARINGS

18.1 Purpose

The purpose of this policy is to establish guidelines for **administrative hearings** when **parents** or child care **providers** disagree with an **adverse action** taken by the **Georgia Department of Early Care and Learning (DECAL)**.

18.2 Scope

This policy applies to all employees of the **Department of Early Care and Learning (DECAL)**, all parties responsible for the administration of the CAPS program, **parents**, and child care **providers** who receive subsidies administered by DECAL on behalf of parents.

18.3 Right to an Administrative Hearing for Parents

18.3.1 Parents receiving subsidized child care have a right to **appeal** and receive a hearing regarding any actions instituted by DECAL that impact a parent's eligibility and/or any action that would require a reclaim of funds. Lack of funding availability is not appealable. It is important to note the following situations are not appealable:

- Applications disposed as unable to process or withdrawn
- Selection of a child care provider that has been previously terminated by the CAPS program.
- Dissatisfaction with care or services provided by the child care provider.
- Statewide or local limitations on CAPS funding that results in a denial of CAPS services.
- The natural expiration of a family's eligibility period.
- Any changes in federal or state law, regulations, or policies that affect entire populations.

18.3.2 If a parent appeals an adverse action that was imposed during the **eligibility period**, the parent may elect to continue receiving benefits at the current level until the appeal is resolved or until the end of the current eligibility period, whichever comes first. Funds paid when this option is exercised may be subject to reclaim.

18.3.3 If a parent appeals an adverse action imposed at annual redetermination, they may not elect to continue receiving benefits beyond the eligibility period preceding the annual redetermination.

18.3.4 The parent must request an administrative hearing, as appropriate, in writing within 14 **calendar days** from the date on the notice of adverse action.

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18.3.5 Failure to request an administrative hearing by the deadline listed on the notice or within 14 calendar days from the date of the notice shall automatically affirm DECAL's decision.

18.3.6 If the individual making a hearing request does not speak English and a bilingual staff person or interpreter is requested, DECAL must ensure that the appellant is afforded a translator at the hearing.

18.4 Right to an Administrative Hearing for Child Care Providers

18.4.1 Child care providers receiving CAPS services have the right to appeal and receive a hearing regarding DECAL actions resulting in a reclaim of funds. It is important to note that the following matters are not appealable:

- Future payments
- Lack of funding availability
- Denial from participation in CAPS
- Dismissal from participation in CAPS
- Disqualification from participation in CAPS

18.4.2 The child care provider may request a reconsideration or an administrative hearing related to a reclaim of funds, as appropriate, in writing within 14 calendar days from the date listed on the notice or within 14 calendar days from the date of the notice on an appealable or adverse action taken by DECAL.

18.4.3 Failure to request reconsideration or a hearing, as appropriate, by the deadline listed on the notice or within 14 calendar days from the date of the notice shall automatically affirm DECAL's decision.

18.4.4 If the individual making a hearing request does not speak English and a bilingual staff person or interpreter is requested, DECAL must ensure that the appellant is afforded a translator at the hearing.

18.5 Notification

18.5.1 All parties will be notified of the hearing date and location by the **Office of State Administrative Hearings (OSAH)**. Hearings for the CAPS program are conducted by OSAH.

18.6 Release of Information

18.6.1 For the purpose of the administrative hearing process, individuals shall have access to his or her eligibility case records as required by law. Child care providers will have access to their enrollment records previously submitted to the **State Provider Management Agent (SPMA)**. All other record requests shall be obtained through the open records process.

18.6.2 When requested, records for review will be sent to the parent or the provider through U.S. mail or approved electronic means at DECAL's discretion.

18.7 Pre-Hearing Conferences

18.7.1 Parents and providers shall have the right to request a pre-hearing conference before proceeding to the actual administrative hearing. At no time shall an individual be discouraged from pursuing his or her right to an administrative hearing. A pre-hearing conference does not stay a hearing before OSAH.

18.7.2 If requested, the pre-hearing conference shall be scheduled at a time and place agreed to by all parties.

18.7.3 Parents and child care providers may not refuse participation if a pre-hearing conference is required by DECAL. Failure to appear at pre-hearing conferences requested by DECAL may result in **sanctions** against the parent or child care provider.

18.7.4 Parents and child care providers may have an authorized representative participate on his/her behalf.

18.7.5 Neither DECAL nor the parent or child care provider shall be bound to make an agreement during this pre-hearing.

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18.7.6 If there is an agreement during the pre-hearing conference, the agreement must be documented and shall be required to be followed by all parties.

POLICY REVISION HISTORY

Date	Description of Change
10/01/2019	Added additional clarification related to matters that are not appealable. Revised language to note that when allowed, appeals must be requested by the deadline listed on the notice or within 14 calendar days from the date of the notice.
05/15/2020	Revised language to clarify non-appealable actions for parental authorities.