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Title 22@ Social Security

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Division 2@ Department of Social Services-Department of Health Services

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Part 2@ Health and Welfare Agency-Department of Health Services Regulations

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Subdivision 6@ Preventive Medical Services

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Chapter 6@ California Special Supplemental Food Program for Women, Infants and Children

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Article 7@ Food Delivery System

## **40752 Abbreviated Administrative Appeals for Vendors**

Section 40752@ Abbreviated Administrative Appeals for Vendors

### **(a)**

Notwithstanding Section 40751(e), the Department shall grant only an abbreviated administrative appeal to those vendors requesting an appeal for any of the following reasons: (1) A denial of authorization based on a current Food Stamp Program disqualification or civil money penalty in lieu of disqualification. (2) A disqualification of a vendor based on a violation of Section 40740(c).

#### **(1)**

A denial of authorization based on a current Food Stamp Program disqualification or civil money penalty in lieu of disqualification.

#### **(2)**

A disqualification of a vendor based on a violation of Section 40740(c).

### **(b)**

The Program shall provide vendors who qualify for an abbreviated appeal for any of the reasons specified in subsection (a) with the following abbreviated administrative appeal process. (1) The Program shall provide written notification to the vendor. The notice shall: (A) Inform the vendor of the adverse action affecting vendor participation, the reason for the adverse action affecting vendor participation, and the effective date of the adverse action affecting vendor participation. (B) Specify that the vendor is entitled to an abbreviated administrative appeal. (C) Describe the steps the vendor shall follow to appeal,

should the vendor elect to do so, as set forth in this Section. (D) Identify the deadline by which the vendor shall file a written response appealing the adverse action affecting vendor participation, as set forth in subsection (b)(3) of this Section. (E) Specify the content required in the written response appealing the adverse action affecting vendor participation, as set forth in subsection (b)(4) of this Section. (F) Inform the vendor of the address where the written response appealing the adverse action affecting vendor participation shall be sent. (2) The vendor shall have 30 calendar days following the receipt of written notice of the adverse action affecting vendor participation to file a written response appealing the action. The vendor may amend in writing the response at any time during the 30 calendar day period. (3) Any written response appealing the adverse action affecting vendor participation received beyond 30 calendar days shall be denied and the adverse action affecting vendor participation deemed final. (4) The vendor's written response appealing the adverse action affecting vendor participation shall: (A) Identify the vendor name, address, and vendor authorization number, if the vendor is or was authorized to participate in the Program. (B) Be signed by the vendor ownership or the authorized agent, and shall state the address of the vendor ownership or the agent, if any agent has been designated. The vendor shall specify the name of the agent authorized on behalf of the vendor to receive any and all documents, including the final decision of the Director or the Director's designee. (C) Be specific to each issue that the vendor disputes, setting forth the vendor's contentions as to those issues and including any supporting evidence. Only those issues in the vendor's written response appealing the adverse action affecting vendor participation shall be considered by the Director or the Director's designee. (5) The Director or the Director's designee, who is someone other than the person who rendered the initial decision on the adverse action

affecting vendor participation, shall conduct the abbreviated administrative appeal review. The appeal procedure shall consist only of review of written materials submitted by the Program and the vendor. The Director or the Director's designee shall issue a written decision that shall be based solely on whether the Program's action was consistent with federal and State statutes and regulations. The decision shall provide that the action taken should be upheld or reversed, in whole or in part. The decision of the Director or the Director's designee shall be final and not subject to an administrative appeal as specified in Section 40751. The right to judicial review shall be communicated to the vendor in the event that the Director or Director's designee renders an appeal decision that is adverse to the vendor. (6) A copy of the decision of the Director or the Director's designee shall be mailed by certified mail to the vendor or the agent of the vendor.

**(1)**

The Program shall provide written notification to the vendor. The notice shall: (A) Inform the vendor of the adverse action affecting vendor participation, the reason for the adverse action affecting vendor participation, and the effective date of the adverse action affecting vendor participation. (B) Specify that the vendor is entitled to an abbreviated administrative appeal. (C) Describe the steps the vendor shall follow to appeal, should the vendor elect to do so, as set forth in this Section. (D) Identify the deadline by which the vendor shall file a written response appealing the adverse action affecting vendor participation, as set forth in subsection (b)(3) of this Section. (E) Specify the content required in the written response appealing the adverse action affecting vendor participation, as set forth in subsection (b)(4) of this Section. (F) Inform the vendor of the address where the written response appealing the adverse action affecting vendor participation shall be sent.

**(A)**

Inform the vendor of the adverse action affecting vendor participation, the reason for the adverse action affecting vendor participation, and the effective date of the adverse action affecting vendor participation.

**(B)**

Specify that the vendor is entitled to an abbreviated administrative appeal.

**(C)**

Describe the steps the vendor shall follow to appeal, should the vendor elect to do so, as set forth in this Section.

**(D)**

Identify the deadline by which the vendor shall file a written response appealing the adverse action affecting vendor participation, as set forth in subsection (b)(3) of this Section.

**(E)**

Specify the content required in the written response appealing the adverse action affecting vendor participation, as set forth in subsection (b)(4) of this Section.

**(F)**

Inform the vendor of the address where the written response appealing the adverse action affecting vendor participation shall be sent.

**(2)**

The vendor shall have 30 calendar days following the receipt of written notice of the adverse action affecting vendor participation to file a written response appealing the action. The vendor may amend in writing the response at any time during the 30 calendar day period.

**(3)**

Any written response appealing the adverse action affecting vendor participation received beyond 30 calendar days shall be denied and the adverse action affecting vendor participation deemed final.

**(4)**

The vendor's written response appealing the adverse action affecting vendor participation shall: (A) Identify the vendor name, address, and vendor authorization number, if the vendor is or was authorized to participate in the Program. (B) Be signed by the vendor ownership or the authorized agent, and shall state the address of the vendor ownership or the agent, if any agent has been designated. The vendor shall specify the name of the agent authorized on behalf of the vendor to receive any and all documents, including the final decision of the Director or the Director's designee. (C) Be specific to each issue that the vendor disputes, setting forth the vendor's contentions as to those issues and including any supporting evidence. Only those issues in the vendor's written response appealing the adverse action affecting vendor participation shall be considered by the Director or the Director's designee.

**(A)**

Identify the vendor name, address, and vendor authorization number, if the vendor is or was authorized to participate in the Program.

**(B)**

Be signed by the vendor ownership or the authorized agent, and shall state the address of the vendor ownership or the agent, if any agent has been designated. The vendor shall specify the name of the agent authorized on behalf of the vendor to receive any and all documents, including the final decision of the Director or the Director's designee.

**(C)**

Be specific to each issue that the vendor disputes, setting forth the vendor's contentions as to those issues and including any supporting evidence. Only those issues in the vendor's written response appealing the adverse action affecting vendor participation shall be considered by the Director or the Director's designee.

**(5)**

The Director or the Director's designee, who is someone other than the person who rendered the initial decision on the adverse action affecting vendor participation, shall conduct the abbreviated administrative appeal review. The appeal procedure shall consist only of review of written materials submitted by the Program and the vendor. The Director or the Director's designee shall issue a written decision that shall be based solely on whether the Program's action was consistent with federal and State statutes and regulations. The decision shall provide that the action taken should be upheld or reversed, in whole or in part. The decision of the Director or the Director's designee shall be final and not subject to an administrative appeal as specified in Section 40751. The right to judicial review shall be communicated to the vendor in the event that the Director or Director's designee renders an appeal decision that is adverse to the vendor.

**(6)**

A copy of the decision of the Director or the Director's designee shall be mailed by certified mail to the vendor or the agent of the vendor.