

## Chapter 10

### Taking Corrective or Adverse Actions with Providers on Agreement (POA)

#### Complying with the Child Care Services (CCS) Provider Agreement

Providers must comply with all the terms of the CCS Provider Agreement and follow procedures in this *Provider Manual*. CCS will take corrective or adverse action with a POA who does not comply as required.

A copy of the Provider Agreement is in Appendix II of this *Provider Manual*.

Adverse and corrective actions are defined in the Glossary of Terms in Appendix IV of this *Provider Manual*.

#### Service Improvement Agreements (SIA-Form 2402)

CCS staff will negotiate SIA's for a POA if Provider:

- Does not meet the terms of the Provider Agreement, Form 2430, updated & signed annually
- Does not follow the procedures in this *Provider Manual*.
- Does not adhere to Child Care Licensing Minimum Standards Rules

Service Improvement Agreements will:

- State the problem
- Explain to the POA what improvements must be made
- List alternative ways for the POA to work on improvements
- Tell what CCS staff will do to assist the POA in making the improvements, including any technical assistance to be provided by CCS
- Set time limits for making improvements
- List the possible consequences of not making the improvements

CCS staff will discuss SIA's with the POA and will offer whatever assistance is needed for the POA to correct the problems or make the improvements. SIA's must be signed by the POA and CCS staff. When renewing a Provider Agreement, CCS will take into account the number of SIA's that have been written and the reasons for them.

If a serious problem occurs with a POA which includes, but is not limited to, child abuse, neglect and child safety/endangerment issues, CCS can take immediate action.

When a Provider Agreement is ended because of corrective or adverse action, the provider must wait a minimum of six months before they can reapply to be considered for a new Provider Agreement with CCS.

### **Violation of Licensing Minimum Standards by a POA**

Violation of the Provider Agreement and the resulting actions taken by CCS are separate from violations of TDFPS's licensing minimum standards. However, since the Provider Agreement requires CCS Providers to be in good standing with TDFPS licensing, the CCS will take action with the POA if TDFPS's licensing minimum standards are violated.

CCS may take action against a POA if:

- TDFPS Licensing Division takes corrective or adverse action against a POA, i.e. Due Notice, Plan of Action, evaluation, probation, revocation of license
- The POA is in serious or continued noncompliance with licensing standards

If a POA violates licensing minimum standards rules, actions that can be taken by CCS include, but are not limited to:

- Non-payment for being over capacity or transporting without insurance
- Stopping referrals of CCS children to the POA
- Notifying parents of a serious complaint, noncompliance, or investigation
- Withholding payment for child care services
- Recoupment of funds already paid
- Terminating the Provider Agreement or denying renewal of the Provider Agreement

CCS action that is taken depends on the kind of TDFPS corrective or adverse action taken against the POA.

A POA who has TDFPS adverse or corrective action taken against them must notify CCS within **one work day**. The POA must also notify CCS when a complaint is made to TDFPS against them. See “**REMEMBER**” at the end of this chapter for a list of TDFPS action that must be reported to CCS.

**Note:** Similar actions will be taken when a POA regulated by the Texas Department of Health (TDH) or the United States Military Services violate the regulatory standards set by these entities.

### **How TDFPS Violations Affect Provider Agreements**

If TDFPS has either corrective or adverse action pending against a child care provider at the time **initial** application to become a POA is made, a CCS Agreement **will not** be signed until the TDFPS action has been cleared.

If TDFPS has any type of action pending against a POA at the time for annual renewal of the Provider Agreement, the decision whether or not to renew the Provider Agreement will depend on the reason for the TDFPS action,

### **Attendance Over Licensed Capacity**

It is the responsibility of the POA to operate within the limits of their licensed or registered capacity and to be within staff/child ratio. A CCS provider who is found by TDFPS in noncompliance with their requirements must report it to CCS within **one work day**. If the noncompliance is observed by CCS staff or CVWDB staff, either will document this noncompliance and report it to TDFPS. **CCS Providers will not be paid for CCS children's attendance on a day the facility is overcapacity or out of staff/child ratio by TDFPS Minimum Standards.**

### **Suspected Child Abuse or Neglect**

Everyone in Texas is required by law to report suspected child abuse or neglect. If the suspected abuse or neglect happens while the child is in care with a POA, the TDFPS Child Care Licensing or a local or state law enforcement agency must be notified. CCS staff will notify TDFPS if they receive a complaint against a POA.

If a POA suspects abuse or neglect of a child is happening away from the facility, the individual who suspects the abuse or neglect must immediately report the suspicion to TDFPS Child Protective Services.

### **Reasons CCS Providers Could Be Prosecuted**

CCS Providers may be prosecuted under applicable federal or state laws for:

- False claims for payment
- False statements
- False documents

### **RULES THAT APPLY**

The following rules apply to information in Chapter 10:

§809.113—Action to Prevent or Correct Suspected Fraud

§809.115—Corrective and Adverse Action

## **Remember**

### **CCS Must Be Notified Within One Work Day If...**

- TDFPS places the facility on:
  - corrective action (i.e. due notice, plan of action, evaluation, probation)
  - adverse action (i.e. revocation, suspension)
- TDFPS finds the facility to be in noncompliance with licensing standards, including attendance over licensed capacity
- A complaint investigation is being conducted by TDFPS
- A charge of child abuse or neglect is filed against the POA
- Similar actions will be taken when a POA who is regulated by the TDH or the United States Military Services violates those regulatory standards