

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 337
SERVICE APPEAL PROCESS

Section	
337.10	Purpose
337.20	Definitions
337.30	The Service Appeal Process
337.40	Department and Provider Agency Responsibilities on Appealable Issues
337.50	The Right to a Service Appeal
337.60	Who May Appeal
337.70	What May Be Appealed
337.80	What May Not Be Appealed
337.90	Notices of Department or Provider Agency Decisions
337.100	How to Request a Service Appeal
337.110	Grounds for Dismissal of a Service Appeal Request
337.120	Time Frames for the Service Appeal Process
337.130	Continuing Services During the Service Appeal Process
337.140	Confidentiality During the Service Appeal Process
337.150	Notice Concerning a Service Appeal
337.160	Abandonment of a Service Appeal
337.170	Fair Hearing Appeal Rights
337.180	The Administrative Law Judge
337.190	Record of a Fair Hearing
337.200	Combined Hearings
337.210	Continuances Requested in a Combined Hearing
337.220	The Final Administrative Decision
337.230	Who Receives a Copy of the Final Administrative Decision
337.240	Notice of the Availability of Judicial Review
337.250	Severability of This Part

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5].

SOURCE: Adopted at 17 Ill. Reg. 1046, effective January 15, 1993; amended at 19 Ill. Reg. 7175, effective June 1, 1995; amended at 19 Ill. Reg.10557, effective July 1, 1995; emergency amendment at 25 Ill. Reg. 4283, effective March 19, 2001, for a maximum of 150 days; emergency

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

expired August 15, 2001; amended at 26 Ill. Reg. 62426, effective June 1, 2002; amended at 26 Ill. Reg. 11778, effective August 1, 2002; amended at 36 Ill. Reg. 4388, effective March 7, 2012; amended at 39 Ill. Reg. _____, effective _____.

Section 337.20 Definitions

"Adequate notice" means a notice that contains all of the elements identified in Section 337.90(c) of this Part.

"Administrative Hearings Unit" means the Department's unit responsible for receiving requests for and acting upon a service appeal and conducting fair hearings on appeal.

"Administrative law judge" means an attorney who is appointed by the Director of the Department and who is responsible for conducting the fair hearing.

"Administrator of the Administrative Hearings Unit" means the person who is responsible for receiving requests for a service appeal and for coordinating the fair hearings.

"Appellant" means the person who requests a service appeal or on whose behalf a service appeal is requested.

"Authorized representative" means a person authorized in writing by the appellant to assist the appellant in the appeal process. If the appellant is unable to reduce such authorization to writing, the Department shall assist the appellant in doing so. The representative may be legal counsel or other spokesperson.

"~~Child and Youth Investment Teams~~Clinical Intervention for Placement Prevention" or "CIPPCAYIT" means a regionally based, multidisciplinary team consisting of designated DCFS staff, the child (when age-appropriate), the child's family, extended family and others who have relevant and current information about the child, and professionals who are critical to achieve informed, sound decision-making.

"Clinical Intervention for Placement Prevention (CIPPCAYIT) Action Plan" means a written document summarizing a clinical assessment of a child or youth's service needs, identifying the resources required to meet those needs, and establishing time frames for their achievement.

"Child welfare services" means ~~public~~publicly-funded social services that are directed toward the accomplishment of the following purposes:

Formatted: No underline

Formatted: No underline

Formatted: No underline

Formatted: No underline

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

protecting and promoting the health, safety and welfare of all children, including homeless, dependent, or neglected children;

preventing, ~~or~~ remedying, or assisting in the solution of problems that may result in, the neglect, abuse, exploitation, or delinquency of children;

preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;

restoring to their families children who have been removed by the provision of services to the child and the families when the child can be cared for at home without endangering the child's health and safety;

placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate;

assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At the time of placement, the Department shall consider concurrent planning...so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;

providing supportive services and living maintenance that contributes to the physical, emotional and social well-being of children for whom the Department is legally responsible who are pregnant and unmarried;

providing shelter and independent living services for homeless youth; and

placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, or in a licensed shelter facility, or secure child care facility. The Department is not required to place or maintain children:

who are in a foster home; or

Formatted: Indent: Left: 1"

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

who are ~~persons with a developmental disability~~developmentally disabled, as defined in the Mental Health and Developmental Disabilities Code [\[405 ILCS 5\]](#);
or

who are female children who are pregnant, pregnant and parenting or parenting;
or

who are siblings,

in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age. [\[20 ILCS 505/5\(a\)\(3\)\]](#)

These services include but are not limited to: counseling, advocacy, day care, homemaker, emergency caretaker, family planning, adoption, visitation, placement, child protection and information and referral.

"Clinical placement review" means a process whereby designated clinical Department staff will review a disputed decision by the Department or purchase of service agency to remove a child from the home of a foster family or relative caregiver, when the child will be placed in the home of another foster family or relative caregiver.

"Date of action" means the effective date of the action or proposed action by the Department or provider agency that resulted in the appeal.

"Date of appeal" means the postmark date or date of receipt of appellant's written request for an appeal, which-ever is earlier, at the address specified in the notice.

"Date of notice" means the date on which the appellant receives written notice of the Department's intended action or decision or the date on which the appellant learns of the intended action or decision, if a written notice was not provided.

"Day care services" means care provided to children for less than 24 hours per day in facilities requiring licensure under the Child Care Act of 1969 [225 ILCS 10/1] in facilities exempt from licensure, in the homes of relatives, or in their own home.

"Department representative" means an attorney or designated individual responsible for presenting the Department's position in mediation, staffings and negotiations and at an emergency review and fair hearing.

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Emergency review" means a limited review of the actions or decisions of the Department or provider agency that may adversely affect an individual or individuals served by the Department. An emergency review provides for an interim decision pending a fair hearing.

"Fair hearing", as used in this Part, means a formal review of the action or decision of the Department or provider agency to determine whether that action or decision is in compliance with applicable laws and rules and will be in the best interests of the child.

"Family" means [one or more adults and children, related by blood, marriage, civil union or adoption and residing in the same household](#) ~~the biological or adoptive parents (provided a court has not terminated parental rights), legal guardian, or any relative who has assumed custody and control of the child in the absence of the child's biological or adoptive parents.~~

"Final administrative decision" means the Department's final decision, order, or determination on an appealed issue rendered by the Director in a particular case that affects the legal rights, duties or privileges of appellants and that may be appealed in a circuit court under the Administrative Review Law [735 ILCS 5/~~Art. III~~].

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising a child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the [parent\(s\)](#) to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code. 301.80 ([Relative Home Placement](#)) must be met.

"Imminent risk of harm" means that individuals' actions, omissions or conditions endanger the life, or seriously jeopardize the physical or mental health or safety of themselves or others, if protective action would not be taken immediately.

"Individual legally acting on a person's behalf" means an individual who has been appointed by a court to act on behalf of a person when the person is incompetent, incapacitated, or otherwise unable to speak for himself or herself.

"Mediation" means a meeting open to all parties affected by the decision being appealed to attempt agreement on the issue in dispute, with a mediator who assists the parties in resolving issues and drawing up an agreement.

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Mediator" means a neutral third party appointed by the Director of the Department who conducts the mediation and assists the parties in resolving issues and drawing up an agreement.

"Parties" means the Department or its agents and those persons who have appealed the service decisions made by the Department or its agents.

"Preponderance of the evidence" means the greater weight of the evidence or evidence that renders a fact more likely than not.

"Provider agency" means an agency offering case management and/or casework services through a signed contract with the Department for paid services.

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

Formatted: Not Highlight

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt; or
- is the spouse, or party to a civil union, of such a relative; ~~or~~
- is the child's step-father, step-mother, or adult step-brother or step-sister. or
- is the partner, or adult child of a partner, in a civil union with the child's mother or father.

Formatted: Not Highlight

Formatted: Not Highlight

"[R]elative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines, and documents, that it would be in the child's best interests to consider this person a relative, based upon the factors for determining best interests set forth in Section 1-3(4.05) of the Juvenile Court Act of 1987 [705 ILCS 405/1-3(4.05)]. [20 ILCS 505/7(b)]

"Request for an appeal" means the written request by an appellant for a fair hearing to review an action taken or a decision made by the Department or a provider agency on behalf of the

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Department. If the appellant is unable to request an appeal in writing, the Department or provider agency shall help the appellant put the request in writing.

"Reviewer" means the person appointed by the Department to conduct an emergency review.

"Service appeal process" means the appeal system offered by the Department to parents, children, guardians ad litem, foster parents and relative caregivers to challenge service decisions of the Department.

"Services" means child welfare or day care services, including placement services or benefits provided by the Department or its provider agencies under Titles IV and XX of the Social Security Act (42 USC 601 et seq. and 1397 et seq.) or the laws of the State of Illinois.

"Stay of action" means the action or decision made by the Department or its provider agency will not be implemented pending an emergency review or final administrative decision by the Department.

"Timely written notice" means a notice that complies with the requirements of Section 337.90(b) [of this Part](#).

(Source: Amended at [39 Ill. Reg. _____](#), effective _____)

Section 337.30 The Service Appeal Process

When the issue is the removal of a child from the home of a foster family or relative caregiver, the service appeal process for the Department of Children and Family Services consists of a fair hearing after a clinical placement review of the decision to remove the child pursuant to subsection (c) of this Section. When the issue is disagreement with a [Clinical Intervention for Placement Prevention \(CIPP\) Child and Youth Investment Team](#) Action Plan, the service appeal process consists of a fair hearing to review the issue pursuant to subsection (d). In all other cases, the service appeal process for the Department of Children and Family Services consists of a mediation, which is optional, and a fair hearing. Initiation of a service appeal does not preclude ongoing discussion between the parties to resolve the appealed issues. If mediation is successful, an agreement is drawn up, with assistance of the mediator, and signed by the parties. In some instances, the issue on appeal is too immediate to await the final administrative decision on the action. An emergency review may be held in lieu of mediation on the specific issues, and an interim decision will be issued by the reviewer pending the fair hearing and final administrative decision. Mediation and emergency review is not available to any party when the issue is removal or change of placement of a child, or disagreement with a service decision in a [CIPP Child and Youth Investment Team](#) Action Plan.

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

a) Mediation

- 1) The Department shall offer mediation to an appellant within 30 calendar days from the date of appeal in an attempt to resolve his or her issues. The appellant may accept or reject an offer to participate in mediation. No issues addressed and determined by an emergency review, clinical placement review, or [Clinical Intervention for Placement Prevention Child and Youth Investment Team](#) may be addressed in mediation. If mediation is successful, an agreement is drawn up, with assistance by the mediator, and signed by the parties. This constitutes a resolution of the fair hearing, but the appellant may reinstate the request for hearing if the agreement is violated.
- 2) If the dispute is not resolved in mediation, or if the appellant rejects the mediation agreement and the Department receives written notice of this rejection at least 15 calendar days after the mediation session, the appellant may then proceed to the fair hearing.
- 3) The individual conducting the mediation shall be trained as a mediator and shall have no prior involvement in the case.

b) Emergency Review

An emergency review allows for an interim decision pending a fair hearing and can be requested by any party. The request for an emergency review must be in writing and shall be submitted to the Administrative Hearings Unit, Department of Children and Family Services, 406 E. Monroe, Station 15, Springfield, Illinois 62701. The emergency review must be requested within ten calendar days of the date of an appeal. A determination will be made whether the issues are appropriate for emergency review. If they are appropriate, the Department shall schedule an emergency review and the reviewer shall issue a decision, which shall include any corrective orders, within ten calendar days from the date of the request for emergency review. The Department shall implement the order within five calendar days from the date the decision was issued by the reviewer. An emergency review is held to consider only the following issues on appeal:

- 1) Lack of Timely Notice Due to Imminent Risk of Harm

A party may request an emergency review within 10 calendar days after the date of appeal on any issue, except placement, where the Department or

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

provider agency has taken action without timely notice because the child was determined to be at imminent risk of harm. The reviewer shall consider only whether imminent risk of harm existed to justify the Department or provider agency action without timely notice. If the reviewer determines imminent risk of harm did not exist, the reviewer shall order corrective action.

2) Continuing Services Pertaining to Changes in Family Visitation During the Service Appeal

When services pertaining to the family visitation plan remain unchanged because an appeal has been requested within 10 calendar days after the date of notice, a party may request an emergency review, if that party has reasonable cause to believe that imminent risk of harm to the child will result if services remain unchanged during the appeal process. The only issue to be considered by the reviewer is whether imminent risk of harm to the child is likely to result from the stay of action. If the reviewer determines imminent risk of harm to the child is likely to result, the reviewer may order corrective action.

c) Clinical Placement Review

1) When the issue is the removal of a child from the home of a foster family or relative caregiver, the party objecting to the removal must request and complete a clinical placement review before filing a request for a service appeal. The request for a clinical placement review must be made within 3 working days after receiving the notice of intent to remove the child.

2) The Department shall conduct a clinical placement review within 5 working days of receipt of the request. During the clinical placement review, the Department will review the current placement, the reason for the removal of the child, and the child's needs regarding safety, well being and permanency. The clinical reviewer has the authority to create an action plan that may alleviate the issues prompting removal of the child. The clinical reviewer may postpone the removal date when he/she determines the need to obtain and review additional information that currently exists in another file or the party requesting the change in placement agrees to postpone the removal date.

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 3) The Department shall provide written notice of the decision of the clinical placement review and the right to request a fair hearing through the Department's Administrative Hearings Unit.
- 4) The following placement changes shall not be subject to clinical placement review:
 - A) change in the child's substitute care placement when:
 - i) the child has been placed in a licensed foster family or relative caregiver's home for fewer than 60 days, or
 - ii) the child has been placed in an unlicensed relative caregiver's home for fewer than 90 days;
 - B) placement to consolidate siblings in a single home;
 - C) placement of a child in a specialized foster home, in accordance with a [CIPP Child and Youth Investment Team](#) Action Plan;
 - D) placement in a group home or institution, in accordance with a [CIPP Child and Youth Investment Team](#) Action Plan; or
 - E) placement in a transitional or independent living program, in accordance with a [CIPP Child and Youth Investment Team](#) Action Plan.
- 5) The Department or provider agency may immediately remove a child from a foster family or relative caregiver's home, without timely notice to the family, when the child is determined to be at imminent risk of harm in the current placement.
- 6) When the child, family or caregiver disagrees with the final clinical placement review decision, the objecting party may request a hearing through the Department's Administrative Hearings Unit.
- 7) The request for a fair hearing must be submitted in writing within 10 days after receiving written notice of the clinical placement review decision. The request for a hearing and a copy of the clinical placement review decision shall be sent to:

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

DCFS Administrative Hearings Unit
Change of Placement Appeals
406 East Monroe, Station 15
Springfield, Illinois 62701
Fax: (217) 557-4652

- 8) If an appeal is taken from the final decision of a clinical placement review, the child shall be placed in accordance with that decision during the pendency of the appeal.
- d) Review of Service Decisions in [Clinical Intervention for Placement Prevention](#) ~~Child and Youth Investment Team~~ Action Plans
- 1) ~~CIPP participants~~ [The Child and Youth Investment Team](#) shall attempt to reach a consensus ~~among participants~~ in developing an action plan and resolve any objections to the action plan that are raised. When a consensus cannot be reached, the objecting participants shall record the nature and basis of their objection on the Action Plan.
 - 2) The Department shall provide a copy of the action plan to the parents (if parental rights have not been terminated), the child, the child's guardian ad litem, the child's current caregiver, and may also provide a copy to other ~~CIPP~~ [CAYIT](#) participants when consistent with confidentiality requirements in 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department).
 - 3) The Department shall give written notice to the parents, the child and the child's guardian ad litem, of their right to request a fair hearing through the Department's Administrative Hearings Unit if they disagree with a service decision in the action plan that denies, reduces, suspends or terminates child welfare services.
 - 4) The Department shall give written notice to the current foster parent/relative caregiver of his or her right to request a fair hearing through the Department's Administrative Hearings Unit if he or she disagrees with a service decision in an action plan that directly affects the foster parent/relative caregiver or affects services provided for the benefit of a foster child in his/her care. (See Section 337.70(b))

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 5) The request for a fair hearing must be submitted in writing within 45 days after receiving written notice of the decision of the [CIPPCAYIT](#). The request for a hearing and a copy of the action plan shall be sent to:
- DCFS Administrative Hearings Unit
[CIPPCAYIT](#) Appeals
406 East Monroe, Station 15
Springfield, Illinois 62701
Fax: (217) 557-4652
- 6) In order to stop any recommended denial, reduction, suspension or termination of services during the appeal, the request for a fair hearing must be submitted within 10 calendar days after receiving the action plan.
- 7) When an appeal is not requested within 10 days, the child or youth shall be placed in accordance with the action plan, and all other aspects of the action plan shall be implemented during the pendency of the appeal.
- 8) When a request for a hearing is received, the Administrative Hearings Unit shall conduct a review to determine whether re-convening the [CIPP staffing](#) ~~Child and Youth Investment Team~~ is appropriate based on one of the following factors:
- A) Material information that existed at the time of the [CIPP](#) ~~Child and Youth Investment Team~~ staffing was not presented at the staffing, and the inclusion of that information would have affected the development of the action plan; or
- B) Critical staffing participants, such as the child or youth (if clinically appropriate), current caregiver, guardian ad litem or another professional with relevant, current information about the child or youth were not in attendance at the staffing and their attendance would have affected the development of the action plan.
- 9) If the Administrative Hearings Unit review confirms that one of the factors in subsection (d)(7), is the basis for the appeal, the Administrative Hearings Unit shall refer the case back to the [CIPPCAYIT](#) to review the action plan in light of the additional material and/or include critical staffing participants.

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- A) If a referral back to the [CIPPCAYIT](#) is requested or agreed to by an appellant, the appeal shall be dismissed as premature.
- B) If the appellant does not agree to a review by the [CIPPCAYIT](#), the administrative law judge shall refer the case for review. However, the Department shall be required to make and implement a final administrative decision within the service appeal time frame as set out in Section 337.120.

e) Fair Hearing

At a fair hearing, the administrative law judge conducts a hearing in which the Department and all parties may present evidence supporting their position. The administrative law judge then makes a recommendation to the Director of the Department based on the evidence presented at the hearing.

- 1) At a fair hearing for service appeals of clinical placement review decisions, the burden of proof shall be on the appellant to show by a preponderance of the evidence that the decision made by the clinical reviewer was not consistent with the child's needs regarding safety, well being, and permanency.
- 2) At a fair hearing for appeals of a [CIPPCAYIT](#) action plan, the burden of proof shall be on the appellant to show by a preponderance of the evidence that the decision made by the [CIPPCAYIT](#) was not consistent with the child's needs regarding safety, well being, and permanency.
- 3) At all other fair hearings, the burden of proof shall be on the Department to show by a preponderance of the evidence that the decision made was consistent with the child's needs regarding safety, well being, and permanency.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 337.80 What May Not Be Appealed

The Administrator of the Administrative Hearings Unit will decide whether an issue is appropriate for fair hearing pursuant to Section 337.70 of this Part. Issues inappropriate for a fair hearing include, but are not limited to:

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- a) When the sole issue is one of State or federal law regulating the automatic adjustment of services for classes of children and families;
- b) When the Department has already made a final administrative decision on the issue as a result of a previous appeal;
- c) When the issue is not a service issue as defined in 89 Ill. Adm. Code 302 (Services Delivered by the Department), 89 Ill. Adm. Code 304 (Access to and Eligibility for Child Welfare Services), 89 Ill. Adm. Code 315 (Permanency Planning), 89 Ill. Adm. Code 316 (Administrative Case Reviews and Court Hearings) and 89 Ill. Adm. Code 359 (Authorized Child Care Payment). These issues are to be appealed through a different appeal and administrative hearing process, as identified in 89 Ill. Adm. Code 435 Administrative Appeals and Hearings);
- d) When the issue involves a service that the child does not currently need, but may potentially be needed by the child at some future time;
- e) When the issue regards only the Medical Assistance Program under Title XIX of the Social Security Act (42 USC 1396 et seq.). Appeal requests regarding Title XIX services should be sent to the Department of Healthcare and Family Services;
- f) When a court has made a judicial determination or issued an order on the issue being appealed. [However, a juvenile court determination that a current foster home placement is necessary and appropriate does not constitute a judicial determination on the merits of a service appeal, filed by a former foster parent, involving a change of placement decision.](#)

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 337.110 Grounds for Dismissal of a Service Appeal Request

- a) The Administrator of the Administrative Hearings Unit shall dismiss a request for a service appeal for the following reasons:
 - 1) the appellant failed to request an appeal within the time frames allowed. However, when timely or adequate notice was not provided in accordance with this Part, the appellants may appeal up to 45 days from the date they receive adequate notice of the Department's action or decision;

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 2) the appeal has been withdrawn in writing. If the appellant is unable to withdraw the appeal in writing, the Department or provider shall help the appellant put the withdrawal in writing;
 - 3) the issue is not within the jurisdiction of the appeal system;
 - 4) a court has made a judicial determination or issued an order on the issue being appealed. However, a juvenile court determination that a current foster home placement is necessary and appropriate does not constitute a judicial determination on the merits of a service appeal, filed by a former foster parent, involving a change of placement decision; or
 - 5) the appellant has waived the right to a service appeal by abandoning his or her right, as defined in Section 337.160 of this Part.
- b) The Administrator of the Administrative Hearings Unit shall give written notice of the decision to grant or deny the request for an appeal within ten calendar days of receipt of the request. If the Department finds that the issue is not an appealable issue under this Part, but may be appropriately heard through another appeal process (refer to 89 Ill. Adm. Code 435, Administrative Appeals and Hearings), the Department shall forward the request for appeal to the proper hearing authority and notify the appellant of this action.

(Source: Amended at 39 Ill. Reg. _____, effective _____)