

CHAPTER 75-03-18
PROCEDURES FOR APPEAL OF CHILD ABUSE AND NEGLECT ASSESSMENTS

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SECTION 1. Section 75-03-18-02 is amended as follows:

75-03-18-02. Who may file an appeal.

1. The subject of an assessment of suspected child abuse or neglect who is aggrieved by the result of the assessment or child protection tier designation may file an appeal.
2. A staff member of child protection services ~~will~~shall notify the subject in writing of the decision resulting from an assessment, including the child protection tier designation. The staff member of child protection services who notifies the subject of the decision resulting from the assessment shall complete an affidavit of mailing that becomes a part of the assessment record in the form and manner prescribed by the department.
3. Written appeal procedures are available from the department upon request.

History: Effective September 1, 1990; amended effective November 1, 1994; January 1, 1996; September 1, 1997; April 1, 2022; April 1, 2024.

General Authority: NDCC 50-25.1-05.4, 50-25.1-05.5

Law Implemented: NDCC 50-25.1-05.4, 50-25.1-05.5

SECTION 2. Section 75-03-18-04 is amended as follows:

75-03-18-04. Time for filing request for appeal.

An appeal may not be filed before the date of an assessment decision or child protection tier designation and must be received by the department within thirty days after the documented date of the subject notification of the decision in accordance with procedures in chapter 75-01-03. Notification is considered to have occurred three days after the date on the affidavit of mailing. A postmark date is not accepted as the received date.

History: Effective September 1, 1990; amended effective November 1, 1994; January 1, 1996; September 1, 1997; April 1, 2022; April 1, 2024.

General Authority: NDCC 50-25.1-05.4, 50-25.1-05.5

Law Implemented: NDCC 50-25.1-05.4, 50-25.1-05.5

SECTION 3. Section 75-03-18-13 is amended as follows:

75-03-18-13. Effect of reversal of case decision or appeal.

If an assessment decision is reversed on appeal under this chapter or under North Dakota Century Code chapter 28-32, a notation of the fact that the finding was reversed must be added to the record and the department may not place the subject on the child abuse information index.

History: Effective November 1, 1994; amended effective January 1, 1996; April 1, 2022; April 1, 2024.

General Authority: NDCC 50-25.1-05.4, 50-25.1-05.5

Law Implemented: NDCC 50-25.1-05.4, 50-25.1-05.5

SECTION 4. Section 75-03-19-11 is created as follows:

**CHAPTER 75-03-19
ASSESSMENT OF CHILD ABUSE AND NEGLECT REPORTS**

Section	
75-03-19-01	Definitions
75-03-19-02	Department's Authorized Agent to Receive Reports and Conduct Assessments - Reimbursement
75-03-19-03	Time for Initiating Assessments - Emergencies
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75-03-19-05	Time for Submitting Written Assessment Reports [Repealed]
75-03-19-06	Assessment Procedures
75-03-19-07	Caseload Standards
75-03-19-08	Exchange and Transfer of Information
75-03-19-09	Child Abuse or Neglect Complaint or Allegation
75-03-19-10	Training Requirements
<u>75-03-19-11</u>	<u>Child Abuse Information Index</u>

75-03-19-11. Child abuse information index.

1. The child abuse information index is comprised of three child protection tiers. The highest child protection tier is comprised of the most severe form of maltreatment with the lowest tier consisting of the least severe form of maltreatment. The department shall assign each subject with a confirmed or confirmed with unknown subject determination a child protection tier in correlation with the maltreatment determination.
 - a. Child Protection Tier 1. Subjects determined to have abused or neglected a child for any of the following maltreatment determinations will remain on the child abuse information index for a period of twenty-five years:
 - (1) Physical abuse resulting in death to a child;
 - (2) Neglect resulting in death to a child;
 - (3) Sexual abuse;
 - (4) Physical abuse or neglect resulting in near death of a child;
 - (5) Physical abuse or neglect resulting in bodily injury that created a substantial risk of death, or which caused serious permanent disfigurement, unconsciousness, extreme pain, permanent loss, or impairment of the function of any bodily

member or organ, a bone fracture, or impediment of air flow or blood flow to the brain or lungs; or

(6) Physical abuse or neglect resulting in substantial temporary disfigurement, loss, or impairment of the function of any bodily member or organ.

b. Child Protection Tier 2. Subjects determined to have abused or neglected a child for any of the following maltreatment determinations will remain on the child abuse information index for a period of seven years:

(1) Physical abuse or neglect resulting in any impairment of physical condition, including physical pain;

(2) Neglect impacting the child's physical, mental, or emotional health;

(3) Neglect resulting in environmental exposure to, ingestion of, inhalation of, or contact with a controlled substance, chemical substance, or drug paraphernalia; or

(4) Neglect resulting in prenatal exposure to alcohol misuse or any controlled substance in a manner not lawfully prescribed by a practitioner.

c. Child Protection Tier 3. Child protection tier 3 consists of all other confirmed reports of child abuse and neglect, excluding educational neglect, that do not meet child protection tier 1 or tier 2 criteria. Subjects determined to have abused or neglected a child for any remaining form of maltreatment will remain on the child abuse information index for a period of three years.

2. If two or more forms of maltreatment are found to occur on a confirmed determination, the department shall place the subject on the child abuse information index for the highest applicable child protection tier.

3. The department shall remove the subject from the child abuse information index after the child protection term of years has expired for a confirmed or confirmed with an unknown determination in correlation with the maltreatment determination.

History: Effective April 1, 2024.

General Authority: NDCC 50-25.1-05.4, 50-25.1-05.5

Law Implemented: NDCC 50-25.1-05.4, 50-25.1-05.5