

Minnesota Disability Law Center

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Mid-Minnesota Legal
Aid/Minnesota Disability Law
Center



The Minnesota Disability Law Center

- Designated Protection & Advocacy Agency for vulnerable adults and children with disabilities in Minnesota
- Part of Mid-Minnesota Legal Aid
- Responsibilities Include Legal support, Monitoring of Facilities, Individual Case and Policy Advocacy
- **Statewide Services**
- Free Legal Services for Individuals with issues related to their Disabilities
- Some Limitations based on priorities and staffing



A Home of One's Own: Home and Community Services



A Home of One's Own: Learning Objectives

- What are your rights if a 245D providers issues a notice of service termination?
- How do I appeal a notice of service termination?
- How do I get more time to find a new home?



What are my rights if my 245D residential service provider is trying to terminate my services?

- Your rights are listed under Minnesota Statute 245D.10, subdivision 3a. [Sec. 245D.10 MN Statutes](#)
- This statute contains the procedures or steps a 245D provider must follow when terminating services.



Role of the Case Manager

- Contact your case manager as soon as you receive a notice of service termination.
- Your case manager should be able to assist you with filing an appeal if needed.
- Discuss with the case manager your preferred service options and where you want to live.



What steps must a provider follow when issuing a notice of service termination?

- The notice must be in writing.
- The written notice must be sent to the person/legal representative and the case manager.
- For Residential Services, written notice must also be sent to the commissioner.



How much time does the provider have to give before terminating services?

- 60 days prior to termination when providing intensive supports.
- 30 days prior to termination for all other services licensed under Minnesota Statute 245D.03



What are the reasons a provider can use to terminate my services?

Provider must allow you stay in the program, unless:

1. The provider cannot meet your needs and ending service is needed for your welfare.
2. The safety of you or others is at risk and the provider attempted positive support strategies without success of ending safety concerns.
3. The health or safety of the person or others who receive services is endangered.



What are the reasons a provider can use to terminate my services?

4. The program has not been paid for services.
5. The program stopped operating.
6. The persons waiver eligibility has been terminated.



A notice of Service Termination must include:

- The reason for the termination of services.
- Summary of steps taken to minimize or eliminate the need to terminate services.
 - (1) Consultation with person's support team to identify and resolve issues leading to notice of termination
 - (2) A request to the case manager for intervention/specialist services
- Summary of why steps taken failed to prevent the termination of services.



A notice of Service Termination must include:

- Information about the right to appeal the termination of services **256.045 Subdivision 3(a)12**.
- Information about the right to seek a temporary order staying the termination services **256.045 Subdivision 6(c)**.



What if the service provider did not follow the requirements of 245D.10?

- You can appeal the notice of service termination to the Minnesota Department of Human Services Appeals Division if residential services and supports are being provided in a community residential setting, adult foster care or group home services.
- An appeal request must be submitted within 30 days of the date in which the notice was issued or up to 90 days with good cause.
- Minnesota Adult Abuse Reporting Center at 1-844-880-1574.



How do I submit an appeal?

- You can submit an appeal to DHS online at <https://edocs.dhs.state.mn.us/lfserv/Public/DHS-0033-ENG-eform>
- You can also submit an appeal by fax or mail to:

Minnesota Department of Human Services Appeals Division

PO Box 64941

St. Paul, MN 55164-0941

Fax: 651-431-7523



Requesting a Stay

- You can request a stay or extension of the termination of services for up to 30 days if the county needs more time to finalize a new placement that will meet your needs.
- This stay can be requested in your appeal request.
- This can be requested even if you are not appealing the basis or procedure of termination.
- Services cannot be terminated while a DHS appeal is pending.



Appeal Process

- After an appeal request has been submitted you will get a notice of a hearing date from DHS via mail.
- Hearings are conducted over the phone; you can request an in-person hearing if you or a witness has a disability related need.
- The provider must send you an appeal summary three working days prior to the hearing. The summary is to contain any documentation the provider plans to use at hearing.



Appeal Process

- You have the right to bring any witnesses you need to support your case.
- You have the right to submit evidence supporting your case.
- You can bring an attorney or other representative to the hearing.



Day of Hearing

- Each side can present an opening statement.
- The provider usually goes first.
- If provider does not have an attorney, they usually testify in narrative form.
- If the provider has an attorney testimony is presented in question-and-answer format.
- Judge can ask questions at anytime.
- You have the right to ask questions of opposing witnesses after they testify, opposing party can also ask your witnesses questions.



End of Hearing

- Each side has the right to present a closing statement.
- The judge will not issue a decision at the hearing.



Alternative Option: More time

- If you feel you need more than 30 additional days to find a new placement after receiving a notice of service termination let your provider know.
- In some cases, if you agree not to appeal the service termination the provider might agree to give you more time in return.
- Get any such an agreement in writing.
- If needed ask for more than 30 additional days, as you could likely get DHS to approve such a request



Important Takeaways

- You have the right to appeal a termination of services in a group home, community residential setting or adult foster care.
- Own home services do not have the same appeal rights (currently).
- Even if you feel you have a strong case, start looking for alternative service options as soon as possible.



Important Takeaways

- Use 245D.10 as a guide to see if the provider has followed the proper steps.
- If a program is ceasing operation your appeal options are narrow.



Helpful Links:

- [DHS Guide to Support Person Facing Service Termination](#)
- [245D.10 Subdivision 3a: Service termination statute](#)
- [256.045 DHS Appeal Statute](#)
- [Form to Appeal to DHS Online](#)
- [Arc Guide to DHS Appeals](#)





MID-MINNESOTA LEGAL AID
Minnesota Disability Law Center (MDLC)

MDLC Client Intake Line: 1-800-292-4150 or 612-334-5970
Monday – Friday 9:30-11:30 am, 1:30-3:30 pm

MDLC Factsheets:

<http://www.lawhelpmn.org/issues/disability/>

MDLC Website

www.mndlc.org