Appeal Process for Food Service Facility Decisions

The following section outlines the appeal rights for certain decisions pertaining to Food Service Facilities by the Maryland Department of the Health (MDH) and delegated Approving Authorities (the local health department).

Right to Appeal

The Administrative Procedure Act (Title 10, Subtitle 2 of the State Government Article of the Annotated Code of Maryland) sets forth the procedures for appealing certain decisions issued by MDH or a local health department (Approving Authority) regarding the grant, denial, renewal, revocation, suspension, or amendment of a license, certificate, charter, permit or registration that is required by statute. Pursuant to State Government §10-226(c)(1), an individual has the right to be heard prior to the Approving Authority revoking or suspending a license. COMAR 10.15.03.35 requires such requests to be heard (or appeals), to be made within ten (10) of the date the Notice of Intent to Suspend or Revoke is served. Additionally, in accordance with COMAR 10.01.03, this appeal is in the form of a contested case hearing with the Office of Administrative Hearings (OAH).

In addition to the Administrative Procedure Act, both MDH and OAH have regulations that govern rules of procedure for contested case hearings (COMAR 10.01.03 *et seq* and COMAR 28.02.01 *et seq*).

Decisions That Can Be Appealed to the Local Health Departments

This appeal right applies to the following decisions:

- Denial of an Application for a License (Health-General §21-311, COMAR 10.15.03.28(D))
- Suspension or Revocation of a Food Service Facility License (State Government §10-226(c)(1); Health-General §21-315, COMAR 10.15.03.35(F),(G))
- Order of Abatement (Health-General §21-318; COMAR 10.15.03.35(B))
- Summary Suspension (State Government §10-226(c)(2) and COMAR 10.15.03.35(H))

Notice of Right to Appeal

When MDH or a local health department (Approving Authority) notifies a person of the denial of their food service facility application, a summary suspension, or when a suspension or revocation of the Food Service Facility license is sought, a written notice letter will be issued to the applicant seeking MDH or Approving Authority approval, or licenses. The notice will include appeal rights and required timeframes to file an appeal.

Requesting an Appeal

Any person aggrieved by a decision to deny a license application, suspend or revoke a current Food Service Facility license, a summary suspension, or an order to abate by MDH or an Approving Authority, may request a contested case hearing by sending written

notice to the issuing authority requesting to appeal the decision.

All requests for contested case hearings must be filed with:
Worcester County Health Department
13070 St. Martins Neck
Bishopville, MD 21813

within ten (10) calendar days after receipt of the denial, a notice of intent to suspend or revoke, or an order of abatement is issued by MDH or the Approving Authority.

The written request for a contested case hearing must include a hearing request and attach a copy of the MDH or Approving Authority notice letter that is being appealed. The request should also include a brief statement of the factual and legal basis for the appeal.

After receiving the request for a contested case hearing, MDH or the Approving Authority will transmit the request to OAH. Upon receipt of the filing, OAH will send written notices to the parties, confirming the filing and notice of relevant hearing dates. The hearing will be conducted as provided for in the Administrative Appeals Act, as well as OAH and MDH procedure regulations.

Loss of Appeal Rights

If a request for a contested case hearing is *not* made within ten (10) calendar days, the decision of MDH or the Approving Authority is no longer appealable and the decision will be considered final. The applicant must comply with any terms and conditions of the final decision.