

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, Washington County 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 a final decision issued by MDH or an Approving Authority regarding the grant, denial, renewal suspension, or amendment of a license, certificate, charter, permit or registration that is required by statute. Additionally, COMAR 10.01.03 The 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 final decisions:

- Denial of a License (Health-General §21-311, COMAR)
- Notice of Intent to Suspension or Revocation of an FSF License (Health-General §21-315)
- Order of Abatement (Health-General §21-318)
- Summary Suspension (COMAR 10.15.03.35(H))

Notice of Right to Appeal

When MDH or an Approving Authority notifies a person of the denial of their food service facility application, a summary suspension, or when a Notice of Intent to Suspend or Revoke 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 the application, suspend or revoke a current FSF license, a summary suspension, or issue an order to abate by MDE 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:

Washington County Health Department, Division of Environmental Health, 1302 Pennsylvania Ave., Hagerstown, MD 21742

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 MDE 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.