

Maltreatment of a Minor

The Basics

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What is Child Maltreatment?

- Maltreatment means:
 - Egregious harm
 - Neglect
 - Physical Abuse
 - Sexual Abuse
 - Substantial Child Endangerment
 - Threatened Injury
 - Mental Injury
 - Maltreatment of a child in a facility

Minn. Stat. 260E.03

What is Serious Maltreatment?

- Serious Maltreatment means:
 - Sexual abuse
 - Maltreatment resulting in death
 - Neglect resulting in serious injury which reasonably requires the care of a physician or nurse practitioner

Minn. Stat 245C.02

What is Recurring Maltreatment?

- More than one incident of maltreatment for which there is a preponderance of the evidence that the maltreatment occurred and that the subject was responsible for the maltreatment

Minn. Stat. 245C.02

The statute does not appear to require that maltreatment determination. It could have been a family assessment.

How is Child Maltreatment Reported?

- Mandated reporters (social services, doctor, therapist, child-care, teacher, probation, law enforcement, etc.) have an obligation to report maltreatment of a minor if they have reason to believe that a child is being maltreated or has been maltreated within the preceding three (3) years
- Reports may also be made voluntarily, by non-mandated reports (public, neighbor, ex-husband, etc.)
- Reports are made to:
 - The local welfare agency (local social services)
 - The agency responsible for assessing or investigating the report (DHS)
 - Police, local Sheriff, or tribal police
- Oral reports shall be made immediately and followed-up within 72 hours in writing if the report is made by a mandated reporter

Minn. Stat. 260E.06 and 260E.09

What happens when a report is made?

- Law enforcement and social services are required to cross-report

Minn. Stat. 260E.12

- If the report involves an alleged violation of a criminal statute, law enforcement and social services must coordinate their investigations

Minn. Stat. 260E.14

What are the screening guidelines when a child maltreatment report is made?

- Social Services must determine if a report is to be screened in or out as soon as possible, but no longer than 24 hours

Minn. Stat. 260E.16

- A report that is screened in, must meet certain criteria:
 1. The allegation meets the statutory definition of child maltreatment
 2. There is sufficient identifying information to attempt to locate a child, or at least one family member
 3. A report includes maltreatment allegations that have not been previously assessed or investigated by the local welfare agency or another child welfare agency

Minnesota Department of Human Services Revised Child Maltreatment Intake, Screening and Response Path Guidelines, 2020

What happens if a report is screened out?

- The reporter is notified

Minn. Stat. 260E.10

- The records are maintained, and an offer of services may be made to the subject of the report

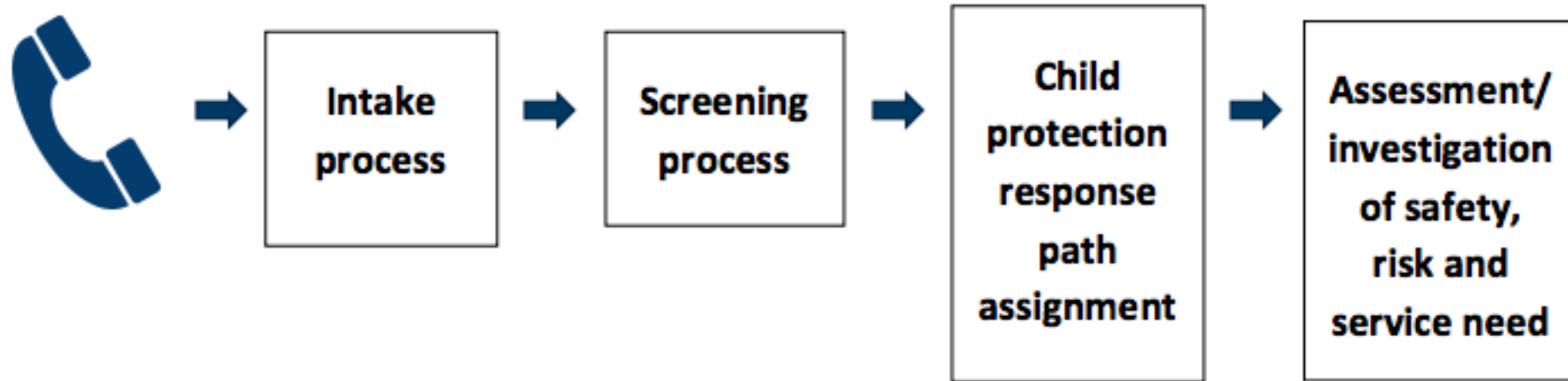
Minn. Stat. 260E.21

What happens if a report is screened in?

- If a report is screened in, the social service agency has to determine the appropriate path forward:
 - Family Assessment, or
 - Maltreatment Investigation
- If the report contains allegations of sexual abuse or substantial child endangerment (egregious harm, expedited tpr), social services must conduct a maltreatment investigation.
- When determining whether to conduct a family assessment, social services may consider issues of child safety, parental cooperation and the need for an immediate response

Minn. Stat. 260E.17

Essentially:



Minnesota's Child Maltreatment Report, 2020

What is a Family Assessment?

- A Family Assessment Involves the gathering of information to evaluate a child's safety, the risk for subsequent child maltreatment, and family's strengths
- The point is to offer services to the family that address the immediate and ongoing safety concerns
- No maltreatment determinations are made
- At the conclusion, 2 decisions are made, whether:
 - Child protective services are needed (either court or voluntary); and
 - Services are agreed upon by the agency and the parents
 - These determinations are not appealable

Minn. Stat. 260E.24

What is a Child Maltreatment Investigation?

- The focus of a child maltreatment investigation is to:
 - Gather facts
 - Assess/Evaluate the risk for subsequent maltreatment
 - Assess the family's protective capacities related to child safety
- A final determination must be made
- At the conclusion of the investigation 2 decisions are made, whether:
 - Maltreatment occurred; and
 - Child protective services are needed.

Minn. Stat. 260E.24

What happens during a Child Maltreatment Investigation?

- Face-to-face contact with the child and primary caregiver shall occur immediately if sexual abuse or substantial child endangerment is alleged and within 5 calendar days for all other reports – this can include a formal interview of the child
- If the alleged offender was not already interviewed (primary caregiver), social services shall also conduct a face-to-face interview with the alleged offender in the early stages (the interview may be postponed if it would jeopardize a law enforcement investigation)
- Social services must collect all available and relevant information to determine child safety, whether maltreatment occurred and whether protective services are needed

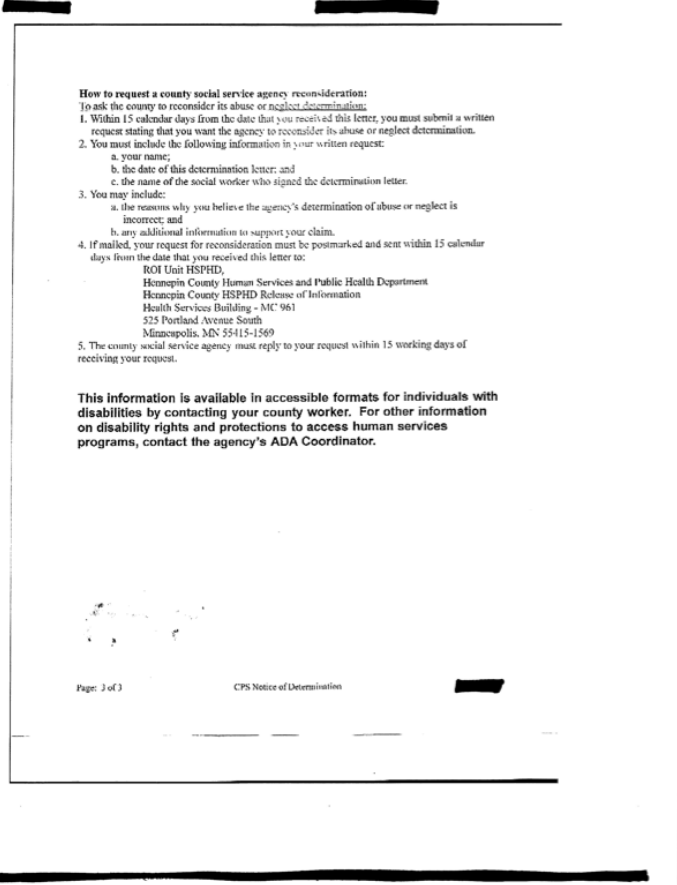
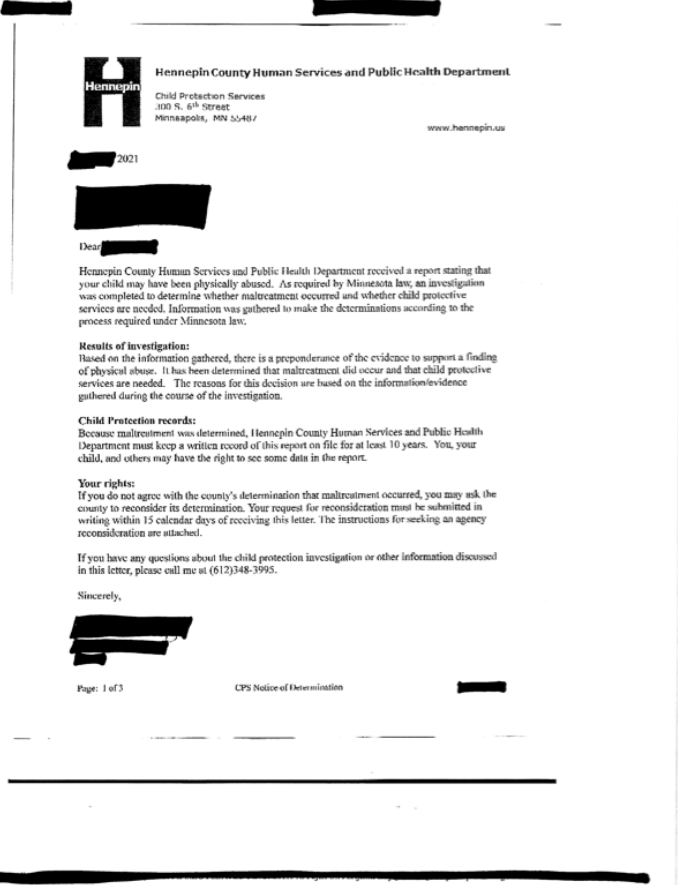
Minn. Stat. 260E.20

How long is a Child Maltreatment Investigation?

- The Child Maltreatment investigation must be concluded within 45 days of the report
- The investigation may be extended to permit completion of a law enforcement investigation or the receipt of expert information

Minn. Stat. 260E.24

At the end of the investigation, the alleged offender receives a Notice of Determination in the Mail.



Not all Determinations are the same:



Hennepin County Human Services and Public Health Department

Child Protection Services
300 S. 6th Street
Minneapolis, MN 55487

www.hennepin.us

[REDACTED] 2021

[REDACTED]

Dear [REDACTED]

Hennepin County Human Services and Public Health Department received a report stating that you may have [REDACTED] (due to a maltreatment determination of [REDACTED]). As required by Minnesota law, an investigation was completed to determine whether maltreatment occurred and whether child protective services are needed. Information was gathered to make the determinations according to the process required under Minnesota law.

Results of investigation:

Based on the information gathered, there is a preponderance of the evidence to support a finding of Threatened sexual abuse. There is NOT a preponderance of evidence to support a finding of sexual abuse. It has been determined that child protective services are needed. The reasons for this decision are based on information and evidence gathered during the investigation.

Child Protection records:

Because maltreatment was determined, Hennepin County Human Services and Public Health Department must keep a written record of this report on file for at least 10 years. You may have the right to see some of the information written about you and your child. Other persons may also have the right to see some data in the report.

Potential impact on licensing, employment, or services:

A finding of maltreatment may result in denial of a license application or background study disqualification related to employment or services that are licensed by the Department of Human Services, the Department of Health, the Department of Corrections, and from providing services related to an unlicensed personal care provider organization. **This determination may have a negative impact on your job or volunteer work with children, elderly, disabled, or other vulnerable people.**

Your rights:

If you do not agree with the county's determination that maltreatment occurred, you may ask the county to reconsider its determination. **Your request for reconsideration must be submitted in writing within 15 calendar days of receiving this letter.** If you still do not agree with the county's final decision after reconsideration, or if the county fails to respond to your request, you

may ask the Commissioner of Human Services for a hearing. The instructions for seeking an agency reconsideration and for requesting an appeal hearing are attached.

If you have any questions about the child protection investigation or other information discussed in this letter, please call me at (612)408-9948.

Sincerely,

[REDACTED]

Continued:

How to request a county social service agency reconsideration:

To ask the county to reconsider its abuse or neglect determination:

1. Within 15 calendar days from the date that you received this letter, you must submit a written request stating that you want the agency to reconsider its abuse or neglect determination.
2. You must include the following information in your written request:
 - a. your name;
 - b. the date of this determination letter; and
 - c. the name of the social worker who signed the determination letter.
3. You may include:
 - a. the reasons why you believe the agency's determination of abuse or neglect is incorrect; and
 - b. any additional information to support your claim.
4. If mailed, your request for reconsideration must be postmarked and sent within 15 calendar days from the date that you received this letter to:

ROI Unit HSPHD,
Hennepin County Human Services and Public Health Department
Hennepin County HSPHD Release of Information
Health Services Building - MC 961
525 Portland Avenue South
Minneapolis, MN 55415-1569
5. The county social service agency must reply to your request within 15 working days of receiving your request.
6. If you still disagree with the county's determination after the reconsideration, or if the county social service agency does not respond within 15 working days of receiving the request, you have the right to ask the Commissioner of Human Services for a hearing.

How to request a hearing from the Commissioner of Human Services:

Follow these steps to ask for a hearing to appeal an abuse or neglect determination:

1. You may only ask for a hearing if you have already followed the steps outlined above to ask the county agency to reconsider its abuse or neglect determination.
2. To request an appeal, send a letter to the Department of Human Services. In the letter, state why you disagree with the county child protection determination.
3. It may be helpful to include with your request either a copy of this determination letter or the county's response to your request for reconsideration. If you do not include one of the letters from the county, make sure that your request for a hearing includes the following information:
 - a. your name;
 - b. the name of the county that made the determination you wish to appeal;
 - c. the date of this determination letter;
 - d. the date of the county's response to your request for reconsideration (if any); and
 - e. the name of the social worker who signed this determination letter.
4. Your request must meet the following time limits:
 - a. If you are requesting a hearing because you disagree with the county's response to your request for reconsideration, the request for a hearing must be sent within 30 days after you received the county agency's response.
 - b. If you are requesting a hearing because the county agency did not respond to your request for reconsideration, the request for a hearing must be sent within 30 days of the date that the county's response was due.
 - c. Under either situation, the request for a hearing may be sent within 90 days if you can show that you had good cause for not sending your request within the 30-day time limit.
5. Send your request to:

Minnesota Department of Human Services
Appeal's Office
PO Box 64941
St. Paul MN 55164-0941
6. The Commissioner will delay or postpone the hearing until any pending juvenile or criminal court matters are ended or resolved.

If you have any questions, call [REDACTED] at [REDACTED] or the Appeals and Regulations Division at 651-431-3600 or toll free 1-800-657-3510.

This information is available in accessible formats for individuals with disabilities by contacting your county worker. For other information on disability rights and protections to access human services programs, contact the agency's ADA Coordinator.

What do we know?

- The individual has 15 days **from receipt** of the determination to request a reconsideration.
- Lessons:
 - Keep the envelope (they are rarely mailed on the date that is on the letter and they are never sent by certified mail)
 - Mail the request for reconsideration to the correct address – the local social services agency – by certified mail

Minn. Stat. 260E.33

Response to Request for Reconsideration:

- After the Agency has reviewed the request for reconsideration, they will respond denying the reconsideration
- The Agency has 15 working days to respond to the request for reconsideration (Minn. Stat. 260E.33)
- Lessons:
 - Keep the envelope

 Compliance and Operational Excellence
Health Services Building
525 Portland Avenue South (MC961)
Minneapolis, Minnesota 55415

(612) 998-9865, Phone
(612) 466-9855, Fax

██████████, 2021

Lucas Dawson, Attorney at Law
Halberg Criminal Defense
7900 Xerxes Avenue S., Suite 1700
Bloomington, MN 55431

Re: ██████████ Request for reconsideration

Dear Mr. Dawson:

Pursuant to Minnesota Statute Section, 260E.33 Subd. 2 (a), we are responding to your request for reconsideration of a finding of maltreatment on behalf of client, ██████████. The alleged perpetrator is listed as unknown in our record/s.

Based on a review of the records, the Department will adhere to its original decision.

Sincerely,

██████████
Social Worker
██████████

After Denial of the Request for Reconsideration, the next step is to request a Fair Hearing

- Within 30 calendar days of the receipt of the Agency determination, the individual must send a request for a Fair Hearing to the Department of Human Services
- If the Agency fails to respond, the individual may send a request for a Fair Hearing

What if an individual fails to timely request the reconsideration or fair hearing?

- The appeal is dismissed, and the maltreatment stands

What is a Fair Hearing?

- A Fair Hearing is a contested hearing where evidence is presented, and testimony is given before a Department of Human Services Judge
- At the hearing the Agency bears the burden of persuasion
- The evidence must support that the Agency's determination is more likely true than not (preponderance of the evidence)
- After the Fair Hearing the DHS Judge can uphold the determination or reverse