

46:11:08:05. Termination of waiver services -- Provider initiated. A provider shall have a policy that addresses notice of termination services. At least 30 thirty calendar days before a provider terminates services to a participant, the provider shall must provide notice of its intention to the division. The notice shall specify the provider's reasons for the action. to terminate services and specify the provider's reasons for the termination to:

(1) The division;

(2) The provider shall provide information to the participant, with accommodations made for a participant who has difficulty communicating;

(3) the The participant's parent parents if the participant is under 18 eighteen years of age, or the participant's guardian, if applicable; and

(4) The participant's individualized service plan team.

The notice must include information regarding the availability of other services in the community and the participant's right to appeal the decision to the division. The provider shall have a policy that addresses notice of termination of services. Notice must be provided at least 30 calendar days prior to termination to the following:

—— (1) The participant, with accommodations made for people who have difficulties communicating;

—— (2) The participant's parent if the participant is under 18 years of age;

—— (3) The participant's guardian;

—— (4) All of the participant's ISP team; and

—— (5) The division.

An appeal of a termination of services may only review whether the required procedures and processes for termination of services were followed. A participant, the participant's parent, or the participant's

guardian appealing a notice of termination under this section must send an appeal to the division within thirty calendar days of receipt of the notice of termination. ~~When~~ If a termination is being appealed, the participant ~~shall~~ must continue receiving services from the provider until a decision on the appeal is reached after a hearing pursuant to SDCL chapter 1-26, or for a maximum of ninety days from the date of the termination notice, whichever occurs first. This section does not prohibit a provider from continuing to provide services to a participant who has received a termination notice for longer than the required ninety days, or after an appeal, on a voluntary basis.

Source: 40 SDR 102, effective December 3, 2013; 43 SDR 9, effective August 2, 2016; 44 SDR 65, effective October 16, 2017.

General Authority: SDCL 27B-2-26(4).

Law Implemented: SDCL 27B-1-15, 27B-2-26.

Cross-Reference: ISP team -- Composition, § 46:11:05:01.