

5101:6-4-01 Continuation of benefits when a state hearing is requested.

- (A) When a request for a state hearing is received by either the state or local agency within the prior notice period, benefits shall not be reduced, suspended or terminated until a state hearing decision is rendered unless:
- (1) A determination is made at the hearing that the sole issue is one of state or federal law, and not one of fact or judgment.
 - (2) The appeal is withdrawn or abandoned pursuant to rule 5101:6-5-03 of the Administrative Code.
 - (3) A change affecting the assistance group's eligibility or level of benefits occurs while the decision is pending and the assistance group fails to timely request a hearing upon receipt of the subsequent notice of adverse action.
 - (4) A mass change which adversely affects a food stamp assistance group's eligibility or basis of issuance occurs while the hearing decision is pending.
 - (5) The assistance group specifically waives continuation of food stamp benefits.

The section for requesting a state hearing on the prior notice contains a space for the assistance group to indicate whether it desires to waive continued food stamp benefits. If the assistance group does not positively indicate that it waives continued benefits, the local agency shall assume that continued benefits are desired.

- (6) The assistance group's food stamp certification period expires. Further entitlement to food stamp benefits cannot be established without recertification based upon a new application as provided in rule 5101:4-7-07 of the Administrative Code.
 - (7) The assistance group's LEAP JOBS supportive services, AND SUPPORT SERVICES PROVIDED TO PARTICIPANTS IN A WORK ACTIVITY UNDER THE OHIO WORKS FIRST PROGRAM OR THE FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM ~~provided under rule 5101:1-47-26 of the Administrative Code~~, are being reduced or terminated.
- (B) When benefits are reduced, suspended or terminated in violation of the provisions of paragraph (A) of this rule, benefits shall be reinstated to the previous level.
- (C) When the request for a state hearing is received by the state or local agency within ten calendar days after the effective date of the adverse action (the ten-day time limit does not apply in the food stamp program), and when good cause is shown for the delay in making the request, benefits shall be reinstated to the previous level.
- (1) "Good cause" is defined as death in the immediate family, sudden illness or injury of the individual or a member of the individual's immediate family, or other circumstances which reasonably prevented requesting a hearing within the timely notice period.
 - (2) Food stamp benefits shall not be reinstated when the assistance group has specifically waived continuation of benefits, or when the certification period has expired.
- (D) When an adverse action was taken without prior notice, pursuant to paragraph (A) of rule 5101:6-2-05 of the Administrative Code, and when the hearing request is received by either the state or local agency within fifteen

calendar days from the mailing date of the notice of adverse action, benefits shall be reinstated to the previous level.

- (E) When food stamp benefits are reduced or terminated because of a mass change, and when the assistance group's hearing request is received by either the state or local agency within fifteen calendar days from the mailing date of the mass change notice, food stamp benefits shall be reinstated to the previous level if the following conditions are met:
 - (1) The reason for the assistance group's appeal is an erroneous application of the mass change to the individual case.
 - (2) The assistance group does not specifically waive its right to continuation of benefits.
- (F) If the need for reinstatement is discovered by the local agency, the local agency shall authorize reinstatement within five workdays of the date of discovery.
- (G) If the need for reinstatement is discovered by the district hearing authority, the district hearing authority shall immediately order reinstatement.
- (H) All reinstatement orders issued by the district hearing authority shall be in writing.
- (I) The agency shall respond to reinstatement orders by authorizing benefits within five workdays of receipt of the order.
- (J) "Reinstatement of benefits to the previous level" means that benefits shall be reinstated retroactive to the date the benefits were reduced, suspended or terminated.
- (K) Benefits so reinstated shall continue until the state hearing decision is rendered unless one of the conditions in paragraph (A) of this rule is met.
- (L) Managed care issues
 - (1) When a hearing request involving a managed care plan's proposed reduction or termination of a medicaid-covered service is received by the state or local agency within the timely notice period, the managed care plan shall be responsible for assuring that assistance is continued at or reinstated to the previous level for the pendency of the appeal.
 - (2) Service shall be continued or reinstated when a timely hearing request is received unless the appellant's physician certifies, in writing to the district hearings section, ODHS, that continuation of the service would pose a substantial risk of adverse health consequences.
 - (3) Nothing in this rule shall require an individual physician to continue a service for an enrollee if that physician believes that to do so would violate the provisions of section 4731.22 of the Revised Code.
- (M) The denial or delay of replacement food stamp benefits, under the provisions of rule 5101:4-7-12 of the Administrative Code, shall remain in effect pending the state hearing decision.
- (N) When a nonadverse action is required, the agency shall proceed with that action.
- (O) In the child support program, the CSEA shall continue to provide services, as otherwise appropriate, without regard to any hearing requests that have been made.

5101:6-4-01

Page 4 of 3

Effective Date: December 30, 1997

Certification: Arnold R. Tompkins

December 19, 1997
Date

Promulgated Under: Revised Code Chapter 119.

Statutory authority: Revised Code Section 5101.35

Rule Amplifies: Revised Code Section 5101.35

Review Date: 12-30-02

Prior Effective Dates: 4-15-75, 6-2-80, 5-1-82, 10-1-82, 1-1-83, 4-1-83, 12-1-83, 10-3-84(Emer.), 12-22-84, 4-1-87, 4-1-89, 11-1-90, 10-1-91, 2-1-92, 6-1-93, 3-1-94(Emer.), 5-15-94, 2-1-95, 12-1-95(Emer.), 2-19-96, 6-1-97, 10-01-97 (Emer.)