

5101:6-5-03 Denial and dismissal of state hearing requests.

- (A) The local agency shall not deny or dismiss any request for a state hearing. All requests shall be sent to the BUREAU OF state hearings ~~section~~, ODHS, in accordance with rule 5101:6-5-01 of the Administrative Code. The BUREAU OF state hearings ~~section~~ shall forward the request to the appropriate district hearings section for disposition.
- (B) When the district hearings section denies or dismisses a state hearing request, the individual and authorized representative shall be provided written notice via "Denial/Dismissal Notice," ODHS 4000, with copies to the local agency and to the BUREAU OF state hearings ~~section~~.

WHEN A HEARING REQUEST INVOLVES MULTIPLE ISSUES, AND WHEN THE APPELLANT WITHDRAWS, IN WRITING, HIS OR HER REQUEST WITH REGARD TO SOME BUT NOT ALL OF THE ISSUES UNDER APPEAL, NOTICE OF DISMISSAL OF THE WITHDRAWN APPEALS MAY BE INCLUDED IN THE "SATE HEARING DECISION," ODHS 4005, RATHER THAN PROVIDED VIA ODHS 4000.

When the hearing request ~~concerns~~ INVOLVES one of the medical determination issues listed in paragraph (C)(2) of rule 5101:6-6-01 of the Administrative Code, a copy of the notice shall be sent to the appropriate medical determination unit.

WHEN THE HEARING REQUEST INVOLVES ACTION OR LACK OF ACTION BY A MANAGED CARE PLAN, COPIES OF THE NOTICE SHALL BE SENT TO THE MANAGED CARE PLAN AND TO THE OFFICE OF MEDICAID, ODHS.

- (C) A state hearing request may only be denied prior to the mailing of the "State Hearing Scheduling Notice," ODHS 4002, and only for the following reasons:

- (1) The request is untimely, as defined by rule 5101:6-3-02 of the Administrative Code.

If the request indicates that proper notice was not received, the request shall be accepted and the issue of timeliness shall be determined as a preliminary matter at the hearing.

- (2) The request was not made by the individual or authorized representative, or written authorization specifically designating the person making the request to act on the individual's behalf was not submitted with the request.

Such a denial must be consistent with the provisions of rule 5101:6-3-02 of the Administrative Code.

- (3) The request concerns an issue that is not appealable under the provisions of rule 5101:6-3-01 of the Administrative Code.

If the issue as stated in the request is unclear, the district hearings section shall request clarification from the individual.

- (4) The sole issue of the request is a change in state or federal law, or local agency policy adopted pursuant to options authorized in state law, which requires automatic adjustments of public assistance or social services for classes of recipients, unless the reason for the request is the misapplication of the change to the appellant's individual circumstances.

- (5) The request concerns the placement of a food stamp assistance group on an alternate issuance system or the length of time the assistance group remains on this system.
- (D) After a state hearing request is scheduled, it may no longer be denied, but must be heard, or dismissed as described in paragraphs (E)(1) and (E)(2) of this rule. Dismissal of a state hearing request constitutes a binding decision on the hearing request.
- (E) A request for a state hearing may be dismissed only for the following reasons:
 - (1) The district hearings section receives a written withdrawal of the hearing request, signed by the individual or authorized representative, before the state hearing decision is issued.
 - (2) The request is abandoned. A state hearing request is "abandoned" when the individual or authorized representative fails, without good cause, to attend the state hearing. A "state hearing" is defined as the initial state hearing, a hearing that has been rescheduled, or a hearing that has been continued.
 - (a) When the hearing has been abandoned, the individual and authorized representative shall be notified via ODHS 4000 that the hearing request will be dismissed if good cause for failing to attend is not shown within ten days of the mailing date of the ODHS 4000.
 - (b) The hearing shall be rescheduled if the individual or authorized representative contacts the district hearings section, in writing or by telephone, within the ten-day period and establishes good cause.
 - (c) The request shall be dismissed as abandoned if the hearings section does not receive a showing of good cause within the ten-day period. The date of dismissal is the day after the ten-day period ends. The local agency and the state hearings section shall then be notified, using the appropriate copies of the ODHS 4000.
 - (d) If the individual contacts the district hearings section but fails to establish good cause, the individual shall be given written notice of that determination and of the right to and the method of obtaining an administrative appeal. Copies shall be sent to the local agency and to the state hearings section.
 - (e) "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 attendance at the hearing.
 - (f) The district hearing authority shall have final authority to determine if good cause was timely shown. Verification of good cause may be required.

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Certification: Arnold R. Tompkins

May 21, 1997
Date

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