

5101:6-6-01 Scheduling and attendance.

(A) Time and place of the hearing

- (1) The hearing shall be conducted at a reasonable time, date, and place. The hearing will usually be conducted at the local agency, since it is usually most convenient to the individual. However, there may be circumstances which warrant conducting the hearing at another time, date, or place. In these cases, efforts shall be made to schedule the hearing at a time, date, and place convenient to all parties involved.
- (2) When a hearing request can be identified as involving an emergency assistance issue or a denial of expedited food stamps, the hearing shall be scheduled and conducted more quickly than other requests, if necessary, so that the decision can be issued within the thirty-day period specified in rule 5101:6-7-01 of the Administrative Code.
- (3) The district hearings section shall expedite food stamp hearing requests from assistance groups, such as migrant farm workers, that plan to move from the county before the hearing decision would normally be issued.
 - (a) Hearing requests from these assistance groups shall be scheduled and conducted more quickly than other requests, if necessary, to enable them to receive a decision, and a restoration of benefits if appropriate, before they leave the county.
 - (b) To qualify, the assistance group must submit, in writing if possible, its planned date of move. When this information is provided in an oral request, the local agency shall put the information in writing and forward it to the district hearings section with the hearing request, if possible, or immediately upon receipt.
- (4) Hearings involving the determination of the community spouse resource allowance shall be conducted within thirty days of the date of the hearing request. This requirement shall not prevent the granting of otherwise appropriate postponements and continuances.
- (5) When the hearing is conducted at the local agency, the local agency shall provide adequate accommodations where the hearing can be conducted in privacy, with the proper decorum, and with a minimum of distractions.

(B) Scheduling notice

- (1) The district hearings section shall send written notice of the time, date, and place of the hearing to the individual and authorized representative, to the local agency, and when appropriate, to the participants identified in paragraph (C)(2) of this rule.

WHEN THE HEARING REQUEST INVOLVES ACTION OR LACK OF ACTION BY A MANAGED CARE PLAN, THE DISTRICT HEARINGS SECTION SHALL ALSO SEND COPIES OF THE SCHEDULING NOTICE TO THE MANAGED CARE PLAN AND TO THE OFFICE OF MEDICAID, ODHS.

The district hearings section shall retain a copy of the scheduling notice, to be included in the hearing record.

In all instances, the "State Hearing Scheduling Notice," ODHS 4002, shall be used.

- (2) The scheduling notice shall be mailed at least ten calendar days prior to the date of the hearing, unless the individual requests less advance notice in order to expedite scheduling.
- (3) "Explanation of State Hearing Procedures," ODHS 4059, shall be mailed to the individual and authorized representative along with the scheduling notice. The scheduling notice, in conjunction with the ODHS 4059, shall:
 - (a) Provide the name, address and telephone number of the person to notify if the individual cannot attend the hearing.
 - (b) Explain that the hearing request will be dismissed if the individual or authorized representative fails, without good cause, to appear for the hearing.
 - (c) Explain state hearing procedures and provide other information necessary for the individual's understanding of the proceedings and the effective presentation of his or her case.
 - (d) Explain that the individual or representative may examine the case file prior to the hearing.

(C) Attendance

- (1) Attendance at the hearing is limited to the following:
 - (a) The agency representative.
 - (b) The individual and/or authorized representative.
 - (c) Legal representation for the individual and for the agency.
 - (d) Witnesses called by the individual and the agency to present relevant testimony.
 - (e) Other persons, only if the individual agrees and if their attendance does not interfere with the orderly conduct of the hearing.
- (2) When the hearing ~~concerns~~ INVOLVES one of the medical determination issues listed in this paragraph, the agency representative shall be the district medical assistance supervisor, a member of the local agency staff, or an employee of the medical determination unit OR AGENCY, as determined by the medical determination unit in consultation with the district director.
 - (a) Medical determination issues include the following:
 - (i) Prior authorization for medical services.
 - (ii) Need for long-term care.
 - (iii) Determination of disability and incapacity.
 - (iv) Precertification of hospital admissions and medical procedures.
 - (v) PREADMISSION SCREENING AND RESIDENT REVIEW (PASRR)

DETERMINATIONS MADE BY THE OHIO DEPARTMENT OF MENTAL HEALTH AND THE OHIO DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES.

- (v) (vi) PACT issues, including enrollment, continued enrollment, denial of a requested provider change, and denial of payment for services by a nondesignated provider.
- (vi) (vii) HCBS waiver determinations.
- (b) If subpoenaed by the district hearing authority under the provisions of rule 5101:6-5-01 of the Administrative Code, the medical determination unit shall participate in the hearing, either in person or by telephone, as required by the subpoena.
- (c) If the medical determination unit is to participate in the hearing by telephone, whether by choice or in response to a subpoena, such participation shall be as described in rule 5101:6-6-04 of the Administrative Code.

(3) WHEN THE HEARING INVOLVES ACTION OR LACK OF ACTION BY A MANAGED CARE PLAN, A REPRESENTATIVE OF THE MANAGED CARE PLAN SHALL PARTICIPATE IN THE HEARING AS THE AGENCY REPRESENTATIVE.

THE MANAGED CARE PLAN REPRESENTATIVE SHALL PARTICIPATE IN THE HEARING EITHER IN PERSON OR BY TELEPHONE.

IF THE MANAGED CARE PLAN REPRESENTATIVE IS TO PARTICIPATE IN THE HEARING BY TELEPHONE, SUCH PARTICIPATION SHALL BE AS DESCRIBED IN RULE 5101:6-6-04 OF THE ADMINISTRATIVE CODE.

- (3) (4) Any disputes regarding attendance shall be resolved by the hearing officer prior to the hearing.

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Certification: Arnold R. Tompkins

May 21, 1997
Date

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