

5101:6-20-30 Waiver of administrative disqualification hearing.

- (A) An individual suspected of having committed an intentional program violation shall be provided written notice that he or she can waive the right to an administrative disqualification hearing.
- (1) The local agency shall provide the notice at least fifteen days prior to referring the case to ODHS for an administrative disqualification hearing.

Prior to providing notice, the local agency shall ensure, through a review by someone other than the eligibility worker assigned to the individual's case, that the evidence against the individual warrants disqualification.

In cases where reliable information indicates that the individual has left the project area, the waiver notice may be mailed, to the accused individual's last known address, at the same time the referral is sent to ODHS.
 - (2) The district hearings section shall also provide the notice along with the advance notice of the administrative disqualification hearing.
- (B) The notice shall be accompanied by "Explanation of Administrative Disqualification Hearing Procedures," ODHS 4058.
- (C) The waiver notice, in conjunction with the ODHS 4058, shall include the following:
- (1) A statement of the charges against the individual.
 - (2) A summary of the evidence, and how and where the evidence can be examined.
 - (3) A description of the penalties for intentional program violation and a statement of which penalty is applicable to the individual.
 - (4) For notice sent by the local agency prior to referral, the time period within which the signed waiver must be received by the local agency to prevent initiation of the referral.
 - (5) A statement that the head of the assistance group must also sign the waiver when the accused individual is not the head of the assistance group.
 - (6) A statement that the accused individual has the right to remain silent concerning the charges, and that anything said or signed by the individual concerning the charges can be used against the individual in a court of law.
 - (7) An opportunity for the accused individual to specify whether or not he or she admits to the facts as presented by the local agency.
 - (8) A statement that signing the waiver will result in disqualification and a reduction in benefits for the period of disqualification, even if the accused individual does not admit to the facts as presented by the local agency.
 - (9) A statement that the waiver does not preclude either prosecution for intentional program violation or a civil

~~or criminal action~~ or collection of the overpayment/overissuance.

(10) A statement that both the accused individual and the remaining assistance group members, if any, will be held responsible for repayment of the overpayment/ overissuance.

(11) The name and telephone number of the person to contact for more information.

(12) A telephone number to call about free legal services.

(13) A statement that the individual may obtain a copy of the department's published hearing rules from the local agency upon request.

(D) In all instances, the "Waiver of Administrative Disqualification Hearing," ODHS 4026, shall be used.

(E) To waive the disqualification hearing, the accused individual must sign and return the waiver so that it is received by the local agency or the district hearings section prior to the disqualification hearing.

(F) When the individual suspected of intentional program violation signs and returns the ODHS 4026 so that it is received prior to the disqualification hearing, the local agency shall disqualify the individual in accordance with rule 5101:6-20-03 of the Administrative Code, regardless of whether or not the individual admits to the facts as presented by the local agency.

A copy of the ODHS 4026 shall be filed in the individual's case record and a copy shall be sent to the bureau of state hearings, ODHS.

(G) Prior to implementing the disqualification, the local agency shall provide the individual a "Notice of Disqualification for Intentional Program Violation," ODHS 4062, in accordance with rule 5101:6-20-18 of the Administrative Code.

(H) The disqualification period shall be implemented as follows:

(1) For ADC, the period shall begin no later than the first day of the second month which follows the date the ODHS 4062 is mailed.

(2) For food stamps, the period shall begin with the first month which follows the date the ODHS 4062 is mailed.

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Certification: Arnold R. Tompkins

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Date

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