

5101:6-3-02 State hearing requests.

(A) Definition

- (1) A "request for a state hearing" is defined as a clear expression, by the individual or authorized representative, to the effect that he or she wishes to appeal a decision or wants the opportunity to present his or her case to a higher authority. The request may be either oral or written.

A STATE HEARING MAY ONLY BE REQUESTED BY OR ON BEHALF OF AN INDIVIDUAL APPLYING FOR OR RECEIVING BENEFITS. A STATE HEARING MAY NOT BE REQUESTED BY THE LOCAL AGENCY, THE STATE AGENCY OR ANOTHER ENTITY, SUCH AS A MANAGED CARE PLAN, ACTING FOR OR IN PLACE OF THE LOCAL OR STATE AGENCY.

- (2) Oral requests for a hearing shall immediately be converted to a written record by the person to whom the request is made. It is not appropriate to require the individual to submit a written request once the desire for a hearing has been expressed orally. Requests made by telephone must be made by the individual.
- (3) Written authorization must accompany all requests made on an individual's behalf by an authorized representative except:
 - (a) Upon a showing that such authorization cannot be obtained because of the individual's death or incapacity, and that the representative is, in fact, acting in the individual's best interest.

Example: A person who made initial application for the individual and whom the agency has always considered to be the individual's authorized representative.

- (b) That attorneys may make a written hearing request on an individual's behalf without written authorization.

Written authorization is still required for access to case record documents and if the attorney or representative appears for the hearing unaccompanied by the individual.

- (c) That an individual's spouse may request a hearing on behalf of the individual without written authorization.
- (d) That a provider of long-term care may request a hearing, without obtaining written authorization, to contest the level of care assigned to the individual.

(B) Time limit

- (1) The individual shall be allowed ninety calendar days to request a hearing on any action or inaction.

In the food stamp program, "action" shall include denial of a request for restoration of benefits lost more than ninety days but less than a year prior to the request for restoration.

- (2) The ninety-day period begins on the day after the date the notice of action is mailed. The date of the hearing request is the date it is received by either the state or local agency.
- (3) The ninety-day time limit does not apply unless the individual has received notice of hearing rights relative

to the specific action or inaction being appealed, as specified in chapter 5101:6-2 of the Administrative Code.

- (4) Individuals who receive a resource assessment not in conjunction with a medicaid application and who later apply for medicaid must request a hearing on the assessment no later than ninety days following the mailing date of the notice of approval or denial of the medicaid application.
- (5) In the food stamp program, the assistance group may request a hearing at any time within the certification period to dispute its current level of benefits.
- (C) The freedom to request a state hearing shall not be limited, interfered with, or discouraged in any way. THIS APPLIES NOT ONLY TO THE LOCAL AND STATE AGENCY BUT ALSO TO ENTITIES, SUCH AS MANAGED CARE PLANS, ACTING FOR OR IN PLACE OF THE LOCAL OR STATE AGENCY. Local and state agency emphasis shall be on helping the individual to submit and process the request, and to prepare for the hearing.
- (D) In the food stamp program, if the assistance group making the hearing request speaks a language other than English, and the local agency is required by rule 5101:4-1-07 of the Administrative Code to provide bilingual staff or interpreters who speak the appropriate language, the local agency shall ensure that the hearing procedures are explained verbally in that language.
- (E) Complaints concerning discrimination because of age, race, sex, religion, national origin, political beliefs, or handicap shall be referred to the ODHS EE0 officer for investigation.

If the complaint also concerns one of the issues listed in rule 5101:6-3-01 of the Administrative Code, it shall also be considered a state hearing request.

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Certification: Arnold R. Tompkins

May 21, 1997
Date

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