

5101:6-5-01 Procedures prior to the state hearing.

(A) Receipt and processing of the request

- (1) When a hearing request is made to the BUREAU OF state hearings ~~section~~, ODHS, the BUREAU OF state hearings ~~section~~ shall send the request to the district hearings section, with a copy to the local agency, within one workday from the date of receipt.
- (2) When the hearing request is made to the local agency, the local agency shall date stamp the request, retain a copy, and send the request to "ODHS, State Hearings, 30 East Broad Street, 31ST Floor, Columbus, Ohio 43266-0423," within one workday from the date of receipt.
- (3) When the hearing request ~~concerns~~ INVOLVES one of the medical determination issues listed in paragraph (C)(2) of rule ~~5101:6-6-1~~ 5101:6-6-01 of the Administrative Code, the BUREAU OF state hearings ~~section~~ shall also send a copy of the request to the medical determination unit.
- (4) WHEN A HEARING REQUEST INVOLVING ACTION OR LACK OF ACTION BY A MANAGED CARE PLAN IS RECEIVED BY THE BUREAU OF STATE HEARINGS, THE BUREAU OF STATE HEARINGS SHALL ALSO SEND COPIES TO THE MANAGED CARE PLAN AND TO THE OFFICE OF MEDICAID, ODHS.

(B) Appeal summary

- (1) The agency shall prepare an "Appeal Summary," ODHS 4067, with appropriate attachments, and send it to the district hearings section within five workdays from the date the hearing request is received. A copy shall be placed in the individual's case record.
- (2) WHEN THE HEARING INVOLVES ONE OF THE MEDICAL DETERMINATION ISSUES LISTED IN PARAGRAPH (C)(2) OF RULE 5101:6-2-01 OF THE ADMINISTRATIVE CODE, THE MEDICAL DETERMINATION UNIT SHALL PREPARE THE APPEAL SUMMARY AND SEND IT TO THE DISTRICT HEARINGS SECTION AND TO THE LOCAL AGENCY.
- (3) WHEN THE HEARING INVOLVES ACTION OR LACK OF ACTION BY A MANAGED CARE PLAN, THE MANAGED CARE PLAN SHALL ASSURE THAT AN APPEAL SUMMARY IS PREPARED AND SENT TO THE DISTRICT HEARINGS SECTION, WITH COPIES TO THE COUNTY DEPARTMENT OF HUMAN SERVICES AND TO THE OFFICE OF MEDICAID, ODHS.
- ~~(2)~~ (4) The ODHS 4067, together with its attachments, shall provide a summary of all facts and documents relevant to the issue under appeal, and shall be sufficient to demonstrate the basis for the agency's action or determination.
- ~~(3)~~ (5) Agency failure to prepare an appeal summary, or to make it available to the individual or authorized representative for a reasonable period before the hearing, may be considered good cause for postponing or continuing the hearing if the individual has been materially disadvantaged by the failure.
- ~~(4)~~ ~~When the hearing concerns one of the medical determination issues listed in paragraph (C)(2) of rule 5101:6-6-1 of the Administrative Code, the medical determination unit shall prepare the appeal summary and send it to the district Hearings section and to the local agency.~~

(C) County conferences

- (1) In order to avoid unnecessary state hearings, the local agency shall provide an opportunity for the individual to discuss and/or resolve disagreements with local agency actions or inaction.
- (2) When an individual requests a county conference, the local agency shall convene a conference presided over by the director or a designee. Both the local agency and the individual may bring whomever each reasonably wants to be at the conference. The issue to be decided by the presiding person shall be whether the agency can show, by a preponderance of the evidence, that its action or inaction was in accordance with ODHS rules. If not, the presiding person shall retract the notice of adverse action and/or decide the question of the individual's entitlement to benefits, or arrange to make that determination as quickly as possible. The outcome of the county conference shall be recorded, in writing, in the case record.
- (3) The individual need not have a county conference in order to have a state hearing, nor does the holding of a county conference, or the individual's failure to appear for one, diminish the right to a state hearing. A state hearing must still be held unless a resolution is reached at the county conference and the individual withdraws the hearing request in writing. Any such withdrawal shall be signed and dated by both the individual and the local agency representative, shall clearly set forth the resolution upon which the withdrawal is based, and shall be forwarded to the district hearings section within two workdays. One copy shall be given to the individual and one copy shall be retained in the case file.
- (4) A county conference for assistance groups contesting a denial of expedited food stamps shall be scheduled within two workdays, unless the assistance group requests that it be scheduled later or states that it does not wish to have a county conference.

(D) Legal representation

- (1) Both the individual and the agency have the right to be represented by legal counsel at the state hearing. The agency shall provide the individual with information regarding free legal services in the community, as specified elsewhere in ~~chapters~~ CHAPTERS 5101:6-1 to 5101:6-9 of the Administrative Code and upon request from the appellant, via ODHS 4059. The local agency may provide legal services through a social services contract.
- (2) WHEN THE HEARING INVOLVES ACTION OR LACK OF ACTION BY A MANAGED CARE PLAN, THE MANAGED CARE PLAN SHALL ALSO HAVE THE RIGHT TO BE REPRESENTED BY LEGAL COUNSEL AT THE HEARING.

(E) Access to documents and regulations

- (1) The individual and authorized representative shall be provided reasonable time before the date of the hearing, as well as during the hearing, to examine the contents of the case file, as well as all records and documents to be used by the agency at the hearing, except for confidential information protected from release.
- (2) If the individual or authorized representative requests case record documents that are relevant to the issue under appeal, the agency shall provide one copy of each such document at no cost. The authorized representative must provide the individual's signed authorization prior to obtaining a copy of case record material.
- (3) Current program manuals shall be made available to the individual or authorized representative for review at the local agency.
- (4) The agency's failure to provide or allow access to the above information may be the basis for postponing

or continuing the hearing.

- (5) Confidential material protected from release, and other documents or records that the individual will not have an opportunity to contest or challenge, shall not be presented at the hearing nor affect the hearing officer's decision.
- (6) When the hearing involves work registration or employment and training, the individual shall also be allowed to examine the employment and training component case file, except for confidential information (which may include test results) that the agency determines should be protected from release.
- (7) WHEN THE HEARING INVOLVES ACTION OR LACK OF ACTION BY A MANAGED CARE PLAN, THE PROVISIONS OF PARAGRAPHS (E)(1), (E)(2), (E)(4), AND (E)(5) OF THIS RULE SHALL APPLY TO THE MANAGED CARE PLAN, ITS SUBCONTRACTING PROVIDERS, AND ALL RELEVANT RECORDS.

(F) Subpoenas

- (1) Both the local agency and the individual or authorized representative may request, at least five calendar days prior to the date of the state hearing, that ODHS issue a subpoena to compel the presence of documents and witnesses that would not otherwise be available and that are essential to the requesting party's case.
- (2) The district hearing authority shall make the determination as to whether such subpoenas shall be issued and whether subpoenaed individuals shall participate in person or by telephone. If a subpoena request is denied, the reason for denial shall be clearly explained in the state hearing decision.
- (3) Subpoenas shall be served by mail. The payment of witness fees for attendance and travel is not required.
- (4) WHEN THE HEARING INVOLVES ACTION OR LACK OF ACTION BY A MANAGED CARE PLAN, THE MANAGED CARE PLAN SHALL HAVE THE SAME SUBPOENA RIGHTS AS THE COUNTY DEPARTMENT OF HUMAN SERVICES.

(G) Transportation

The local agency may provide transportation to the individual through a social services contract where a valid need for transportation exists.

(H) Group hearings

- (1) The district hearings section may respond to a series of individual state hearing requests by scheduling a single group hearing. Requests may be consolidated only when individual issues of fact are not disputed and where related issues of state or federal law are the sole issues being raised.
- (2) In all group hearings, the rules governing individual hearings must be followed. Each individual shall be permitted to present his or her own case or have his or her case presented by an authorized representative.
- (3) Individuals scheduled for a group hearing shall be notified of the group hearing procedures, via ODHS 4059, along with the scheduling notice.

Effective Date: June 1, 1997

Certification: Arnold R. Tompkins

May 21, 1997  
Date

Promulgated Under: Revised Code Chapter 119.

Statutory Authority: Revised Code Sections 2301.35, 5101.35

Rule Amplifies: Revised Code Sections 2301.35, 5101.35

Review Date: 12-30-02

Prior Effective Dates: 4-15-75, 6-28-76, 9-1-76, 10-1-78, 12-1-79, 6-1-80, 6-2-80, 9-19-80, 10-1-81, 2-1-82, 5-1-82, 10-1-82, 1-17-83, 4-1-83, 7-1-83, 7-3-83, 11-1-83 (Temp.), 12-1-83, 12-22-83, 3-1-84(Temp.), 6-1-84, 5-1-85(Emer.), 7-1-85(Emer.), 7-30-85, 9-25-85, 4-1-86, 4-1-87, 9-1-87, 10-14-88(Emer.), 12-22-88, 4-1-89, 2-1-92, 6-1-93