

5101:6-7-01 State hearing decisions.

(A) Hearing authority

- (1) The district office of proper jurisdiction is responsible for preparing and issuing state hearing decisions under the authority of the director of the Ohio department of human services. For this purpose, the district director shall designate a hearing authority to review the findings, conclusions, and recommendations of the district hearing officers and to issue decisions under the authority of the director, ODHS.
- (2) In the event of a temporary absence of the hearing authority, the district director shall designate another individual within the district office to assume the duties of hearing authority, so that timely issuance of decisions is not jeopardized.
- (3) No person designated as hearing authority shall have previously participated in the agency decision being appealed, nor shall the hearing authority and the hearing officer who conducted the hearing be the same person.

(B) Timely issuance

- (1) Hearing decisions involving public assistance, social services, and child support services shall be issued within seventy calendar days from the date of the hearing request. No extension of the seventy-day requirement is permitted because the individual requests a delay in the scheduling of the hearing.
- (2) Hearing decisions involving emergency assistance shall be issued within thirty calendar days from the date of the hearing request.
- (3) Hearing decisions involving food stamps shall be issued within sixty calendar days from the date of the hearing request, with the following exceptions:
  - (a) When the hearing has been postponed, as described in rule 5101:6-5-02 of the Administrative Code, the sixty day time limit shall be extended by as many days as the hearing was postponed.
  - (b) Hearing decisions involving a denial of expedited food stamps shall be issued within thirty calendar days from the date of the hearing request.
  - (c) When the hearing has been requested in response to the simultaneous proposal of PA and food stamp adverse actions, the hearing decision shall be issued according to PA timeliness standards.
- (4) The district office is responsible for the timely issuance of hearing decisions.

(C) Basis

- (1) The hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing, or after the hearing and subject to examination and rebuttal by both parties as described in rule 5101:6-6-02 of the Administrative Code.
  - (a) The hearing officer may be guided, but shall not be bound, by the "Ohio rules of evidence" in conducting hearings and in making findings of fact. The hearing officer shall consider all relevant evidence offered at the hearing.

- (b) Hearsay evidence may be considered by the hearing officer in arriving at the findings of fact. However, such evidence must be critically evaluated, since it is not given under oath and cannot be cross-examined to test the perception, memory, and veracity of the declarant.

Direct evidence shall normally be given more weight than hearsay evidence when the two are in conflict. Whenever possible, the hearing officer shall avoid basing a finding of fact solely on hearsay evidence.

- (c) It shall be the responsibility of the agency to show, by a preponderance of the evidence, that its action or inaction was in accordance with ODHS rules.
- (d) The hearing officer's findings of fact shall be binding upon the hearing authority. However, the hearing authority may remand the case to the hearing officer if the hearing authority determines that additional facts not already established by the hearing officer are essential to a correct decision or if the evidence relied upon was taken in violation of rule 5101:6-6-02 of the Administrative Code.

The scope of the remand shall be limited to those additional facts that the hearing authority deems necessary. The remand shall not be the occasion for a new determination of any of the facts already established.

- (2) The hearing officer's conclusions of policy and recommendations shall be based solely on published ODHS regulations, or local agency policy adopted pursuant to options authorized in state law, except when these regulations and policies are silent and reference to the Revised Code or other statutory source is necessary to resolve the issue.

(a) WHEN A HEARING IS REGARDING THE PREVENTION, RETENTION AND CONTINGENCY PROGRAM, THE HEARING OFFICER'S CONCLUSIONS OF POLICY AND RECOMMENDATIONS SHALL BE BASED ON THE FOLLOWING:

(i) ON THE ODHS MODEL DESIGN, DEVELOPED UNDER SECTION 5101.07 OF THE REVISED CODE, IF THE CDHS INVOLVED ADOPTED IT; OR

(ii) ON THE CDHS'S WRITTEN STATEMENT OF POLICIES ADOPTED UNDER SECTION 5108.08 OF THE REVISED CODE AND ANY AMENDMENTS THE CDHS HAS ADOPTED TO THE STATEMENT.

(b) THE HEARING OFFICER'S CONCLUSIONS OF POLICY AND RECOMMENDATIONS SHALL BE BASED ON THE CDHS STANDARDS OF GOOD CAUSE WHEN A DECISION IS REGARDING AN OHIO WORKS FIRST SANCTION FOR FAILURE OR REFUSAL TO COMPLY IN FULL WITH THE PROVISIONS OF THE SELF-SUFFICIENCY CONTRACT WITHOUT GOOD CAUSE. THE HEARING OFFICER WILL ONLY USE THE COUNTY'S STANDARDS OF GOOD CAUSE IF THEY ARE PROVIDED BY THE CDHS.

(c) The hearing authority shall review conclusions and recommendations by the hearing officer, and adopt them when they constitute a correct application of the appropriate regulations.

(d) The hearing authority shall amend conclusions and recommendations that do not correctly apply the appropriate regulations, clearly explaining the reason and basis for any such amendment.

- (3) The hearing decision shall address the issues raised in the request or otherwise included upon agreement of all parties, subject to the conditions of rule 5101:6-3-01 of the Administrative Code.

If it is discovered at the hearing that the request or issue meets one of the denial criteria in rule 5101:6-5-03 of the Administrative Code, the decision shall overrule the appeal on that basis.

- (4) 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, as required by rule 5101:6-5-03 of the Administrative Code, may be included in the hearing decision in lieu of a "Denial/Dismissal notice," ODHS 4000.

(D) Content

The hearing decision shall separately set forth the issue or issues to be decided, the hearing officer's findings of fact, conclusions of policy and recommendations, and the decision and order.

- (1) The issue section shall fully describe the action or lack of action being appealed. It shall include the date and specific nature of the action, including benefit amounts where appropriate, as well as the specific eligibility factor on which the action was based. When multiple issues are involved, they shall be set forth separately and numbered for reference in the remainder of the decision.
- (2) The findings of fact shall first address such preliminary matters as delays due to postponement, resolution of disputes as to standing, and amendments or additions to the issue or issues as stated on the agency's written notice or in the hearing request.

Preliminary matters shall be followed by a clear and orderly chronological discussion of the facts and events relevant to the issue. Facts upon which all parties agree shall normally be set forth first, followed by discussion and resolution of factual disputes. The decision shall clearly indicate the basis for each such finding, to include discussion of the relative weight given to conflicting evidence in arriving at the decision as to where the preponderance of evidence lies.

- (3) The conclusions of policy shall cite and summarize relevant portions of departmental rules or program manuals, and other applicable regulations as necessary, and shall clearly demonstrate how they apply to the facts established.

Food stamp decisions shall also cite applicable federal regulations.

Budget computations, where relevant, shall be clearly set forth.

- (4) The hearing officer's recommendations shall separately indicate the outcome of the appeal on each issue addressed, sustaining those in which the agency is found to have acted incorrectly, overruling those in which the agency's action was correct, and, if the provisions of paragraph (C)(4) of this rule apply, dismissing those that have been withdrawn in writing. Clear instructions to the parties shall be given when additional action is necessary to resolve the matter at issue.

Compliance shall be required, via "State Hearing Compliance," ODHS 4068, as necessary to assure that the individual promptly receives all benefits ordered by a favorable decision.

- (5) The decision and order, signed by the hearing authority, shall indicate adoption or amendment of the hearing officer's recommendations, whether each issue is sustained or overruled, and whether compliance is required.

(E) Notification

- (1) The individual and authorized representative shall be provided with the written state hearing decision via "State Hearing Decision," ODHS 4005. The decision shall provide notice of the right to and the method of obtaining an administrative appeal. Copies of the decision shall be sent to the local agency and to the bureau of state hearings, ODHS.
- (2) When the hearing 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 decision shall also be sent to the medical determination unit.
- (3) When the hearing involves action or lack of action by a managed care plan, copies of the decision shall also be sent to the managed care plan and to the office of medicaid, ODHS.

(F) Hearing record

The state hearing decision, together with documents introduced at the hearing and all papers and requests filed in the proceeding, shall constitute the exclusive record. The hearing record shall be compiled and certified by the hearing authority and forwarded to the local agency, where it shall be maintained in accordance with applicable record retention requirements and made available for review by the individual and authorized representative.

(G) Library of decisions

The chief of the bureau of state hearings, ODHS, shall maintain a library of all state hearing decisions. The decisions shall be available for public inspection and copying, subject to applicable disclosure safeguards.

(H) Binding effect

State hearing decisions shall be binding on the agency or managed care plan for the individual case for which the decision was rendered.

Effective Date: December 30, 1997

Certification: Arnold R. Tompkins

December 19, 1997  
Date

Promulgated Under: Revised Code Chapter 119.  
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