

5101:6-9-01 Further appeal rights.

(A) Judicial review

- (1) Individuals who disagree with an administrative appeal decision have the right to appeal that decision to the court of common pleas, with the following exceptions:
  - (a) Judicial review does not apply to administrative appeals subject to the appeal process described in paragraph (B) of this rule.
  - (b) Judicial review does not apply to appeals involving the child support program, except for appeals which involve the child support disregard payment.
- (2) Residents of the state of Ohio shall appeal to the court of common pleas in the county in which they reside. Individuals who do not reside in the state of Ohio shall appeal to the court of common pleas in Franklin county, Ohio.
- (3) Judicial review is available only to the individual, and not to the local agency.
- (4) Notice of appeal
  - (a) The individual shall mail a notice of appeal to the "~~Ohio department of human services, office of legal services, 30 east broad street, 31st floor, Columbus, Ohio~~ DEPARTMENT OF HUMAN SERVICES, OFFICE OF LEGAL SERVICES, 30 EAST BROAD STREET, COLUMBUS, OHIO 43266-0423." The individual shall also file notice of appeal with the appropriate court of common pleas.
  - (b) In accordance with section 5101.35 of the Revised Code, the mailing and filing of notice of appeal shall be no later than thirty calendar days after the date the office of legal service mails the administrative appeal decision. However, the court may extend the time for mailing and filing notice when good cause is shown. The extension shall not exceed six months from the date the office of legal services mails the administrative appeal decision.
  - (c) The notice of appeal shall state the names of the individual and the Ohio department of human services, the docket number and the date of the administrative appeal decision from which appeal is being made, and the grounds upon which it is being appealed.
- (5) Hearing record
  - (a) Upon receipt of the notice of appeal, the office of legal services shall request the original of the complete state hearing record, as defined in rule 5101:6-7-01 of the Administrative Code, and the original of the complete administrative appeal hearing record, as defined in rule 5101:6-8-01 of the Administrative Code, from the local agency.
  - (b) The local agency shall respond to such requests within two workdays, making a copy of each record for retention in the case file before forwarding the original to the office of legal services.
  - (c) Upon receipt of the state hearing record and the administrative appeal hearing record from the local agency, the office of legal services shall certify the records to the court.



(6) Tape recording/transcript of the hearing

Upon receipt of the notice of appeal, the office of legal services shall request the original of the tape recording of the hearing from the district hearings section.

- (a) The district hearings section shall respond to such requests within two workdays.
- (b) Unless one was already provided under the provisions of rule 5101:6-6-03 of the Administrative Code, the individual or authorized representative may request a copy of the tape recording of the hearing from the office of legal services.

Such requests must be in writing and received by the office of legal services within thirty calendar days following the filing of the notice of appeal.

One copy of the tape shall be provided, within two workdays whenever possible, free of any charge.

- (c) If the court orders ODHS to file a transcript of the state hearing, in accordance with section 5101.35 of the Revised Code, ODHS shall do so, within thirty days of the date of the order.

(7) Implementation of the court order

- (a) Upon receipt of the order of the court, the office of legal services shall immediately forward a copy to the appropriate local agency or ODHS unit.
- (b) The local agency or ODHS unit shall be responsible for promptly and fully implementing the order.
- (c) If implementation of the order is the responsibility of the local agency, the office of legal services shall send a copy of the order to the appropriate district office, which shall be responsible for assuring prompt and full implementation of the order.
- (d) WHEN THE APPEAL INVOLVES ACTION OR LACK OF ACTION BY A MANAGED CARE PLAN, THE OFFICE OF LEGAL SERVICES SHALL IMMEDIATELY FORWARD A COPY TO THE MANAGED CARE PLAN AND A COPY TO THE OFFICE OF MEDICAID, ODHS.

THE MANAGED CARE PLAN SHALL BE RESPONSIBLE FOR PROMPTLY AND FULLY IMPLEMENTING THE ORDER.

THE OFFICE OF MEDICAID, ODHS, SHALL BE RESPONSIBLE FOR ASSURING PROMPT AND FULL IMPLEMENTATION OF THE ORDER.

(B) Appeal of certain JOBS issues to the U.S department of labor

- (1) Administrative appeal decisions involving complaints by regular employees about violation of the JOBS displacement prohibitions, and complaints by JOBS participants about on-the-job working conditions, workers' compensation coverage or CWEP wage rates, may be appealed to the U.S. department of labor. Judicial review, as described in paragraph (A) of this rule, does not apply to this category of administrative appeal decisions.
- (2) Appeal must be made within twenty days of receipt of the administrative appeal decision.

- (3) The appeal must be sent to:

"Office of Administrative Law Judges  
U.S. Department of Labor  
Vanguard Building, Room 600  
1111 20th Street NW  
Washington, DC 20036"

- (4) The appeal must contain:

- (a) The full name, address, and telephone number of the individual.
- (b) The provisions of the Social Security Act or regulations believed to have been violated.
- (c) A copy of the original state hearing request.
- (d) A copy of the administrative appeal decision being appealed.

- (5) In addition, the individual must send a copy of the appeal, as well as any brief in support of the appeal, to each of the following:

- (a) "Assistant Secretary for Employment and Training  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210"
- (b) "Assistant Secretary for Family Support  
Department of Health and Human Services  
370 L'Enfant Promenade, SW, 6th Floor  
Washington, DC 20447"

- (6) Upon receipt of an appeal, the office of administrative law judges will request the entire hearing record from ODHS.

- (a) Upon receipt of such a request, the office of legal services shall request the original of the complete state hearing record, as defined in rule 5101:6-7-01 of the Administrative Code, and the original of the complete administrative appeal hearing record, as defined in rule 5101:6-8-01 of the Administrative Code, from the local agency.
- (b) The local agency shall respond to such requests within two workdays, making a copy of each record for retention in the case file before forwarding the original to the office of legal services.
- (c) Upon receipt of the state hearing record and the administrative appeal hearing record from the local agency, the office of legal services shall certify the records to the office of administrative law judges.
- (d) ODHS may also submit a brief or report to the office of administrative law judges.

- (7) Upon notification of the decision of the office of administrative law judges, the office of legal services shall immediately forward copies to the appropriate local agency and district office. The district office shall be responsible for assuring prompt and full implementation of the decision.

5101:6-9-01

Page 5 of 4

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: 10-14-88(Emer.), 12-22-88, 7-1-91, 10-1-91, 6-1-93