

# State Hearings Manual Table of Contents

**Mike DeWine, Governor**

**Kimberly Hall, Director**

**Ohio Department of Job and Family Services**

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# State Hearings Manual Transmittal Letters

# SHMTL 40 (State Hearings – Updated Forms)

## State Hearings Manual Transmittal Letter (SHMTL) # 40

July 22, 2019

TO: All State Hearings Manual Holders  
FROM: Kimberly Hall, Director  
SUBJECT: State Hearings – Updated Forms

This SHMTL contains one internal form that is revised for accuracy and compatibility with existing computer systems. The effective date of the form is July 2019. Additionally, one form has been obsoleted and not replaced.

**JFS Form 04067, “APPEAL SUMMARY,”** effective 05/2001 is obsolete and replaced by JFS 04067, “APPEAL SUMMARY,” Effective 07/2019. This revised form removes outdated references to assistance group name and assistance group case number and food stamps. The updated form utilizes language which is consistent with current technology.

**JFS Form 04085, “PRIOR NOTICE OF RIGHT TO A STATE HEARING,”** effective 2/2014 is obsolete and is not being replaced. All of the information contained on this form is reflected on the recently revised JFS Form 04065. Users are asked to utilize the JFS Form 04065 and discontinue use of the JFS Form 04085.

### Instructions:

LOCATION	Remove	Insert
FORMS	JFS 04067 (effective 5/2001)	JFS 04067 (effective 7/2019)
	JFS 04085 (effective 2/2014)	Do not replace

This information is also available in the Internet and may be accessed at:

ODJFS ELECTRONIC MANUALS: <http://emanuals.jfs.ohio.gov/>

Innerweb Calendar: <http://www.odjfs.state.oh.us/lpc/calendar/staff/>

Internet Calendar: <http://www.odjfs.state.oh.us/lpc/calendar/>

# SHMTL 39 (State Hearings – Updated Forms)

## State Hearings Manual Transmittal Letter (SHMTL) # 39

July 1, 2019

TO: All State Hearings Manual Holders  
FROM: Kimberly Hall, Director  
SUBJECT: State Hearings – Updated Forms

This SHMTL contains six internal forms that have been revised for accuracy and compatibility with existing computer systems. The effective date of the forms is June 2019. Additionally, one form has been obsoleted.

**JFS Form 04025, “IMPORTANT NOTICE ABOUT YOUR WELFARE BENEFITS,”** effective 05/2001 is obsolete and replaced by JFS 04025, “IMPORTANT NOTICE ABOUT YOUR WELFARE BENEFITS,” Effective 06/2019. This revised form removes outdated references to the now-obsolete spend-down program and updates the phrase “nursing home payment liability” to “monthly share of cost.” The updated form also places boxes to capture the case name, case number and form mail date at the top of page 2. Finally, the form provides all of the current methods for requesting a state hearing at the bottom of page 2 including the self-service web portal.

**JFS Form 04065, “PRIOR NOTICE OF RIGHT TO A STATE HEARING,”** effective 05/2001 is obsolete and replaced by JFS 04065, “PRIOR NOTICE OF RIGHT TO A STATE HEARING,” Effective 06/2019. This revised form removes outdated references to the now-obsolete spend-down program. The updated form also places boxes to capture the case name, case number and form mail date at the top of page 2. This form corrects the phone number for the Legal Aid office in Ohio. Finally, the form provides all of the current methods for requesting a state hearing at the bottom of page 2 including the self-service web portal.

**JFS Form 04074, “NOTICE OF APPROVAL OF YOUR APPLICATION FOR ASSISTANCE,”** effective 09/2011 is obsolete and replaced by JFS 04074, “NOTICE OF APPROVAL OF YOUR APPLICATION FOR ASSISTANCE,” Effective 06/2019. This revised form places fields to capture a request for a hearing by telephone or the need for a specific interpreter and removes reference to the former DFA program on page 2. Moreover, the form provides all of the current methods for requesting a state hearing at the bottom of page 2 including the self-service web portal.

**JFS Form 04074-SPA, “NOTICE OF APPROVAL OF YOUR APPLICATION FOR ASSISTANCE,”** effective 09/2011 is obsolete and replaced by JFS 04074-SPA, “NOTICE OF APPROVAL OF YOUR APPLICATION FOR ASSISTANCE,” Effective 06/2019. This revised form places fields to capture a request for a hearing by telephone or the need for a specific interpreter and removes reference to the former DFA program on page 2. Additionally, the form provides all of the current methods for requesting a state hearing at the bottom of page 2 including the self-service web portal. Finally, the form corrects the Ohio Legal Aid Phone number and corrects Spanish language grammatical errors.

**JFS Form 07334, “NOTICE OF DENIAL OF YOUR APPLICATION FOR ASSISTANCE,”** effective 09/2011 is obsolete and replaced by JFS 07334, “NOTICE OF DENIAL OF YOUR APPLICATION FOR ASSISTANCE,” Effective 06/2019. This revised form places fields to capture a request for a hearing by telephone or the need for a specific interpreter and removes reference to the former DFA program on page 2. Moreover, the form provides all of the current methods for requesting a state hearing at the bottom of page 2 including the self-service web portal.

**JFS Form 07334-SPA, “NOTICE OF DENIAL OF YOUR APPLICATION FOR ASSISTANCE,”** effective 12/2010 is obsolete and replaced by JFS 07334-SPA, “NOTICE OF DENIAL OF YOUR APPLICATION FOR ASSISTANCE,” Effective 06/2019. This revised form places fields to capture a request for a hearing by telephone or the need for a specific interpreter and removes reference to the former DFA program on page 2. Additionally, the form provides all of the current methods for requesting a state hearing at the bottom of page 2 including the self-service web portal. Finally, the form corrects the Ohio Legal Aid Phone number and corrects Spanish language grammatical errors.

**JFS Form 04022, “NOTICE OF MEDICAL DETERMINATION AND RIGHT OF STATE HEARING,”** effective 3/2002 is obsolete and is not being replaced.

**Instructions:**

<b>LOCATION</b>	<b>Remove</b>	<b>Insert</b>
FORMS	JFS 04025 (effective 5/2001)	JFS 04025 (effective 6/2019)
	JFS 04065 (effective 5/2001)	JFS 04065 (effective 6/2019)
	JFS 04074 (effective 9/2011)	JFS 04074 (effective 6/2019)
	JFS 04074-SPA (effective 9/2011)	JFS 04074-SPA (effective 6/2019)
	JFS 07334 (effective 9/2011)	JFS 07334 (effective 6/2019)
	JFS 07334-SPA (effective 12/2010)	JFS 07334-SPA (effective 6/2019)
	JFS 04022 (effective 3/2002)	No replacement

This information is also available in the Internet and may be accessed at:

ODJFS ELECTRONIC MANUALS: <http://emanuals.jfs.ohio.gov/>

Innerweb Calendar: <http://www.odjfs.state.oh.us/lpc/calendar/staff/>

Internet Calendar: <http://www.odjfs.state.oh.us/lpc/calendar/>

# SHMTL 38 (State Hearings- Five-Year Rule Review (Package 2))

## State Hearings Manual Transmittal Letter (SHMTL) # 38

February 11, 2019

TO: All State Hearings Manual Holders  
FROM: Kimberly Hall, Director  
SUBJECT: State Hearings- five-year rule review (package 2)

This SHMTL contains amended division 5101:6 Administrative Code rules as a result of a five-year rule review. The rules are effective 3/1/19.

**5101:6-6-03 "State hearings: recording the hearing."** This amended rule explains the recording of the hearing is not an official part of the hearing record. The rule also describes the period of time in which a taped recording of a state hearing is retained by state hearings. Finally, the rule also describes the availability of rehearing a case when the taped recording is inaudible. A minor change was made to paragraph (B) of this rule. Changed "workdays" to "business days."

**5101:6-6-04 "State hearings: telephone hearings."** This amended rule describes the process by which an individual and local agency may participate in the state hearing by telephone. It also informs the parties how evidence would be collected and made available to the hearing officer. Finally, it requires the hearing officer to provide a description of the evidence made available to the parties during the phone hearing. Changes include updating the name and revision date of the JFS 04002 form. Made other grammatical changes. Deleted the word "calendar" as the word "day(s)" already implies a twenty-four-hour calendar day.

**5101:6-7-02 "State hearings: standards for revising community spouse income and resource allowances at a state hearing."** This amended rule sets forth the standards by which an individual receiving Medicaid can request a state hearing regarding the community spouse's minimum monthly maintenance needs allowance (MMMNA) or the community spouse resource allowance (CSRA). This rule also describes the method by which the hearing officer would calculate an amended MMMNA or CSRA. Finally, the rule informs the individual a hearing will be overruled if the individual has not availed himself or herself of all available sources of income. Changes include updating Administrative Code references and correcting statutory citations. Made other grammatical changes.

**5101:6-8-02 "State hearings: county reviews."** This amended rule governs the process for a county to appeal a state hearing decision through a process called county review. This rule explains the procedures and outcomes of the county review process. Minor, grammatical changes were made to the rule. Changed "state hearings" to "bureau of state hearings." Deleted the word "calendar" as the word "day(s)" already implies a twenty-four-hour calendar day.

**5101:6-20-01 "State hearings: disqualification for an intentional program violation."** This rule describes the circumstances under which an accused individual may be disqualified from receiving assistance for an intentional program violation. The rule also describes the situations in which a local agency shall and shall not initiate administrative disqualification procedures for an intentional program violation. Changed "food assistance" to "supplemental nutrition assistance program (SNAP)." Made other grammatical changes.

**5101:6-20-02 "State hearings: definition of an intentional program violation."** This rule defines intentional program violation in the OWF, supplemental nutrition assistance program (SNAP), and PRC programs. Changed "food assistance" to "supplemental nutrition assistance program (SNAP)" and updated incorporation by reference dates.

**5101:6-20-03 "State hearings: penalties for an intentional program violation."** This rule describes the penalties incurred as a result of an intentional program violation and the method by which the disqualification periods are determined. Changed "food assistance" to "supplemental nutrition assistance program (SNAP)" and updated incorporation by reference dates.

**5101:6-20-04 "State hearings: notification at application."** This rule states that an assistance group is notified of disqualification penalties for an intentional program violation upon each application for benefits and

describes the method by which such notification shall be given. This rule is being amended to correct form revision dates.

**5101:6-20-10 "State hearings: initiating an administrative disqualification hearing."** This rule describes how to initiate an administrative disqualification hearing. This rule is being amended to correct form revision dates and typographical errors. Changed "state hearings" to "bureau of state hearings."

**5101:6-20-11 "State hearings: consolidation of an administrative disqualification hearing with a state hearing."** This rule sets forth the process by which an individual can combine a state hearing with an administrative disqualification hearing. The rule allows the individual to waive the 30-day advance notice period, and it requires Ohio Department of Job and Family Services to issue two separate decisions, based on the respective issues. Updated form revision dates.

**5101:6-20-12 "State hearings: advance notice of the administrative disqualification hearing."** This rule states that an accused individual shall receive prior notice of an administrative disqualification hearing and describes the method by which such notification shall be given. Updated the revision dates of forms. Made other grammatical changes.

**5101:6-20-14 "State hearings: failure to attend the administrative disqualification hearing."** This rule describes the consequences of an accused individual's failure to attend the administrative disqualification hearing. Minor, grammatical changes were made to the rule. Changed "hearings section" to "the bureau of state hearings."

**5101:6-20-15 "State hearings: administrative disqualification hearing procedures."** This rule describes the provisions that apply to the process and conduct of administrative disqualification hearings. Updated the revision date of a form. Changed "hearings section" to "the bureau of state hearings." Deleted the word "calendar" as the word "day(s)" already implies a twenty-four-hour calendar day.

**5101:6-20-16 "State hearings: administrative disqualification hearing decisions."** This rule describes the authority under which administrative disqualification hearing decisions are issued, the necessary contents of said decisions, and the parties who will receive copies of said decisions. This rule is being amended to update form revision dates. Changed "state hearings" to "bureau of state hearings." Made other grammatical changes.

**5101:6-20-17 "State hearings: implementation of the administrative disqualification hearing decision."** This rule describes how an administrative disqualification hearing is implemented and how compliance is achieved. This rule is being amended to correct form revision dates and changed "food assistance" to "supplemental nutrition assistance program (SNAP)." Changed "state hearings" to "bureau of state hearings."

**5101:6-20-18 "State hearings: notice of disqualification for an intentional program violation."** This rule states that an assistance group is notified when the assistance group has been disqualified from receiving benefits as a result of an intentional program violation. The rule also describes the method by which such notification shall be given. This rule is being amended to correct form revision dates and changed "food assistance" to "supplemental nutrition assistance program (SNAP)." Changed "state hearings" to "bureau of state hearings." Changed "workdays" to "business days."

**5101:6-20-30 "State hearings: waiver of administrative disqualification hearing."** This rule describes the notice by which an accused individual may waive the right to an administrative disqualification hearing and the disqualification period which results from such a waiver. This rule is being amended to correct form revision dates and changed "food assistance" to "supplemental nutrition assistance program (SNAP)." Minor, grammatical changes were also made to the rule. Changed "state hearings" to "bureau of state hearings."

**5101:6-20-40 "State hearings: disqualification consent agreement."** This rule describes what a disqualification consent agreement should contain, when it is appropriate to use such an agreement, and the disqualification period which results from an accused individual signing such an agreement. This rule is being amended to update form revision dates and changed "food assistance" to "supplemental nutrition assistance program (SNAP)." Minor, grammatical changes were also made to the rule.

**5101:6-20-50 "State hearings: disqualification from the supplemental nutrition assistance program (SNAP) based on court action."** This rule states that an individual is notified when the individual is disqualified from the supplemental nutrition assistance program (SNAP) based on court action and the

method by which such disqualification is to be implemented. The title of the rule has been updated along with the form revision dates.



# SHMTL 37-A (State Hearings- Five-Year Rule Review (Package 1))

## State Hearings Manual Transmittal Letter (SHMTL) # 37-A

March 21, 2019

TO: All State Hearings Manual Holders  
FROM: Kimberly Hall, Director  
SUBJECT: State Hearings- five-year rule review (package 1)

This SHMTL contains amended, rescinded and new division 5101:6 Administrative Code rules as a result of a five-year rule review. These rules are effective 3/1/19. Rescinded and new rule 5101:6-2-32 were refiled and are effective 4/1/19.

**5101:6-1-01 "State hearings: general."** This rule describes the general hearing and appeal rights and procedures applicable to family services program benefits. The rule also provides general definitions applying to Chapters 5101:6-1 through 5101:6-9 of the Administrative Code. This rule is being rescinded and created as new to reorganize the rule content. Changed "food assistance" to "supplemental nutrition assistance program (SNAP)." In paragraph (F)(11)(c), changed the reference to "5101:2-25." Made other grammatical changes.

**5101:6-2-01 "State hearings: notice at the time of application."** This rule states that an assistance group is to be notified at the time of application of its right to a state hearing and describes the method by which such notice shall be given. The rule is being amended to: change "food assistance" to "supplemental nutrition assistance program (SNAP)" and update the revision date of the JFS 04059 form.

**5101:6-2-02 "State hearings: notice of approval of an application for benefits."** This amended rule states that an assistance group is notified when its application for benefits has been approved and describes the method by which such notification shall be given. This rule is being amended to: change "food assistance" to "supplemental nutrition assistance program (SNAP)" and update the name and revision date of the JFS 07401 form. Also, reorganized paragraph (A).

**5101:6-2-03 "State hearings: notice of denial of an application for benefits."** This rule states that an assistance group is notified when its application for benefits has been denied and describes the method by which such notification shall be given. This rule is being rescinded and created as new to reorganize the rule content. Changed "food assistance" to "supplemental nutrition assistance program (SNAP)." Made other grammatical changes. Paragraph (B)(5) was updated.

**5101:6-2-04 "State hearings: prior notice of adverse action."** This rule states that an assistance group shall receive prior notification when adverse action is proposed by the local agency. The rule also describes the method by which such notification shall be given. This rule is being amended to: change "food assistance" to "supplemental nutrition assistance program" (SNAP) and reorganize paragraph (B).

**5101:6-2-05 "State hearings: exceptions to prior notice."** This rule describes the exceptions to prior notice of proposed adverse action. This rule is being amended to: change "food assistance" to "supplemental nutrition assistance program (SNAP)," update the revision date of the JFS 04085 form, reorganize paragraph (A)(2) and make other grammatical changes. Updated paragraphs (A)(1) and (A)(1)(b).

**5101:6-2-06 "State hearings: notice of mass change in benefits."** This rule states that an assistance group shall receive prior notice when a mass change will require an automatic adjustment of benefits, and the rule describes the method by which such notification shall be given. This rule is being amended to: change "food assistance" to "supplemental nutrition assistance program (SNAP)", reorganize paragraph (A)(2) and make other grammatical changes.

**5101:6-2-07 "State hearings: notice of the right to a state hearing - child support services."** This amended rule states the notifications an assistance group receives from child support services (right to hearing, application acceptance or denial, termination of support order, and case closure), and the rule describes the method by which such notification shall be given. Changes to the rule include: updated the revision date of the JFS 04059 form and made other grammatical changes.

**5101:6-2-08 "State hearings: notice whenever disagreement with an action or inaction is expressed."**

This rule states that an assistance group is reminded to request a hearing and/or provided a new application when disagreement with action or inaction is expressed. This rule is being amended to correct the revision date and name of the JFS 04059 form and reworded paragraph (B).

**5101:6-2-20 "State hearings: notice of overpayment/overissuance."** This rule states that an assistance group is notified when the local agency has determined there was an overpayment/overissuance and describes the method by which such notification shall be given. This rule is being amended to change "food assistance" to "supplemental nutrition assistance program (SNAP)." Also, reformatted the rule.

**5101:6-2-25 "State hearings: notice of eligibility for lost supplemental nutrition assistance program (SNAP) benefits."** This rule states that an assistance group is notified when a loss of SNAP benefits has occurred and describes the method by which such notification shall be given. This rule is being rescinded and created as new to reorganize the rule content. Updated the title of the rule and changed "food assistance" to "supplemental nutrition assistance program (SNAP)."

**5101:6-2-26 "State hearings: notice of approval, denial or delay of replacement supplemental nutrition assistance program (SNAP) benefits."** This rule states that an assistance group is notified when its request for replacement benefits has been approved, denied, or delayed and describes the method by which such notification shall be given. This rule is being amended to update the title of the rule and change "food assistance" to "supplemental nutrition assistance program (SNAP)." Also, reorganized paragraph (B).

**5101:6-2-30 "State hearings: notice of medical determination."** This amended rule describes the process in which a notice of a medical determination will be sent to an individual or their authorized representative. The rule explains the situations in which a notice is sent and contains the information included in that notice. Minor, grammatical changes were made to the rule and paragraph (B) was reorganized for clarity.

**5101:6-2-31 "State hearings: notice of denial of prior authorization for medical or dental services."** This amended rule governs the process for sending notification of denial to an individual who has requested prior authorization of medical or dental services. The rule explains who receives the notification and what information the notification contains. Reorganized paragraph (A).

**5101:6-2-32 "State hearings: notice of adverse preadmission screening and resident review (PASSR) determinations."** This rule governs the process for sending notices for adverse preadmission screenings and resident review determinations. It describes what is contained in each notice, who receives the notice, and how the notice is delivered. This rule is being rescinded and created as new to reorganize the rule content. This rule was refiled to remove the PASSPORT waiver wording in paragraphs (A) and (A)(2)(c).

**5101:6-2-36 "State hearings: notice of denial of just cause request for termination of managed care plan's membership."** This amended rule governs the process for sending notices of denial of a just cause request for termination of a managed care plan's membership. The rule explains why this notice is sent and what information is contained in the notice. Minor, grammatical changes were made to the rule.

**5101:6-2-40 "State hearings: coordinated services program state hearing and notice requirements."** This amended rule sets forth the hearing process for the Medicaid "Coordinated Services Program" (CSP). The rule includes hearing and notice rights associated with proposed enrollment into the CSP, continued enrollment into the CSP, and denial of a designated provider change. Paragraph (C)(1) was reworded for clarity.

# SHMTL 37 (State Hearings- Five-Year Rule Review (Package 1))

## State Hearings Manual Transmittal Letter (SHMTL) # 37

February 13, 2019

TO: All State Hearings Manual Holders  
FROM: Kimberly Hall, Director  
SUBJECT: State Hearings- five-year rule review (package 1)

This SHMTL contains amended, rescinded and new division 5101:6 Administrative Code rules as a result of a five-year rule review. These rules are effective 3/1/19.

**5101:6-1-01 "State hearings: general."** This rule describes the general hearing and appeal rights and procedures applicable to family services program benefits. The rule also provides general definitions applying to Chapters 5101:6-1 through 5101:6-9 of the Administrative Code. This rule is being rescinded and created as new to reorganize the rule content. Changed "food assistance" to "supplemental nutrition assistance program (SNAP)." In paragraph (F)(11)(c), changed the reference to "5101:2-25." Made other grammatical changes.

**5101:6-2-01 "State hearings: notice at the time of application."** This rule states that an assistance group is to be notified at the time of application of its right to a state hearing and describes the method by which such notice shall be given. The rule is being amended to: change "food assistance" to "supplemental nutrition assistance program (SNAP)" and update the revision date of the JFS 04059 form.

**5101:6-2-02 "State hearings: notice of approval of an application for benefits."** This amended rule states that an assistance group is notified when its application for benefits has been approved and describes the method by which such notification shall be given. This rule is being amended to: change "food assistance" to "supplemental nutrition assistance program (SNAP)" and update the name and revision date of the JFS 07401 form. Also, reorganized paragraph (A).

**5101:6-2-03 "State hearings: notice of denial of an application for benefits."** This rule states that an assistance group is notified when its application for benefits has been denied and describes the method by which such notification shall be given. This rule is being rescinded and created as new to reorganize the rule content. Changed "food assistance" to "supplemental nutrition assistance program (SNAP)." Made other grammatical changes. Paragraph (B)(5) was updated.

**5101:6-2-04 "State hearings: prior notice of adverse action."** This rule states that an assistance group shall receive prior notification when adverse action is proposed by the local agency. The rule also describes the method by which such notification shall be given. This rule is being amended to: change "food assistance" to "supplemental nutrition assistance program" (SNAP) and reorganize paragraph (B).

**5101:6-2-05 "State hearings: exceptions to prior notice."** This rule describes the exceptions to prior notice of proposed adverse action. This rule is being amended to: change "food assistance" to "supplemental nutrition assistance program (SNAP)," update the revision date of the JFS 04085 form, reorganize paragraph (A)(2) and make other grammatical changes. Updated paragraphs (A)(1) and (A)(1)(b).

**5101:6-2-06 "State hearings: notice of mass change in benefits."** This rule states that an assistance group shall receive prior notice when a mass change will require an automatic adjustment of benefits, and the rule describes the method by which such notification shall be given. This rule is being amended to: change "food assistance" to "supplemental nutrition assistance program (SNAP)", reorganize paragraph (A)(2) and make other grammatical changes.

**5101:6-2-07 "State hearings: notice of the right to a state hearing - child support services."** This amended rule states the notifications an assistance group receives from child support services (right to hearing, application acceptance or denial, termination of support order, and case closure), and the rule describes the method by which such notification shall be given. Changes to the rule include: updated the revision date of the JFS 04059 form and made other grammatical changes.

**5101:6-2-08 "State hearings: notice whenever disagreement with an action or inaction is expressed."** This rule states that an assistance group is reminded to request a hearing and/or provided a new application

when disagreement with action or inaction is expressed. This rule is being amended to correct the revision date and name of the JFS 04059 form and reworded paragraph (B).

**5101:6-2-20 "State hearings: notice of overpayment/overissuance."** This rule states that an assistance group is notified when the local agency has determined there was an overpayment/overissuance and describes the method by which such notification shall be given. This rule is being amended to change "food assistance" to "supplemental nutrition assistance program (SNAP)." Also, reformatted the rule.

**5101:6-2-25 "State hearings: notice of eligibility for lost supplemental nutrition assistance program (SNAP) benefits."** This rule states that an assistance group is notified when a loss of SNAP benefits has occurred and describes the method by which such notification shall be given. This rule is being rescinded and created as new to reorganize the rule content. Updated the title of the rule and changed "food assistance" to "supplemental nutrition assistance program (SNAP)."

**5101:6-2-26 "State hearings: notice of approval, denial or delay of replacement supplemental nutrition assistance program (SNAP) benefits."** This rule states that an assistance group is notified when its request for replacement benefits has been approved, denied, or delayed and describes the method by which such notification shall be given. This rule is being amended to update the title of the rule and change "food assistance" to "supplemental nutrition assistance program (SNAP)." Also, reorganized paragraph (B).

**5101:6-2-30 "State hearings: notice of medical determination."** This amended rule describes the process in which a notice of a medical determination will be sent to an individual or their authorized representative. The rule explains the situations in which a notice is sent and contains the information included in that notice. Minor, grammatical changes were made to the rule and paragraph (B) was reorganized for clarity.

**5101:6-2-31 "State hearings: notice of denial of prior authorization for medical or dental services."** This amended rule governs the process for sending notification of denial to an individual who has requested prior authorization of medical or dental services. The rule explains who receives the notification and what information the notification contains. Reorganized paragraph (A).

**5101:6-2-32 "State hearings: notice of adverse preadmission screening and resident review (PASSR) determinations."** This rule governs the process for sending notices for adverse preadmission screenings and resident review determinations. It describes what is contained in each notice, who receives the notice, and how the notice is delivered. This rule is being rescinded and created as new to reorganize the rule content.

**5101:6-2-36 "State hearings: notice of denial of just cause request for termination of managed care plan's membership."** This amended rule governs the process for sending notices of denial of a just cause request for termination of a managed care plan's membership. The rule explains why this notice is sent and what information is contained in the notice. Minor, grammatical changes were made to the rule.

**5101:6-2-40 "State hearings: coordinated services program state hearing and notice requirements."** This amended rule sets forth the hearing process for the Medicaid "Coordinated Services Program" (CSP). The rule includes hearing and notice rights associated with proposed enrollment into the CSP, continued enrollment into the CSP, and denial of a designated provider change. Paragraph (C)(1) was reworded for clarity.

# SHMTL 36 (State Hearings – Comprehensive Case Management and Employment Program)

## State Hearings Manual Transmittal Letter (SHMTL) # 36

November 29, 2018

To: All State Hearings Manual Holders

From: Cynthia C. Dungey, Director

Subject: State Hearings – Comprehensive Case Management and Employment Program

This SHMTL contains one amended rule in Chapter 5101:6-10.

### SHM 1000:

**5101:6-10-01** “State Hearings: Hearings for the Comprehensive Case Management and Employment Program.” This rule has been amended to allow for withdrawal of a state hearing request at any time prior to a state hearing being held, or when a decision is being issued. Additionally, the amendment of this rule describes the requirement for lead agencies in preparing for a state hearing. Further appeal rights are also contained in this rule.

### SHM Instructions:

Location	Remove	Insert/Replace
SHM.1000	5101:6-10-01 (effective 07/25/2016)	5101:6-10-01

### Fiscal Impact:

The revisions to the rule in this clearance impose no new requirements on county agencies, and the implementation of this rule should result in no fiscal impact on the county agencies.

### Training Statement:

The revisions to the rule in this clearance will not require training, or technical assistance to be provided to local agencies by ODJFS. Clarification regarding this rule will be available to county staff through the Bureau of State Hearings Staff, who can be reached via email at: [BSH-Rules@jfs.ohio.gov](mailto:BSH-Rules@jfs.ohio.gov).

# SHMTL 35 (State Hearings – Changes to Managed Care Plan Related Hearings)

## State Hearings Manual Transmittal Letter (SHMTL) # 35

September 20, 2018

TO: All State Hearings Manual Holders  
From: Cynthia C. Dungey, Director  
Subject: State Hearings: HEAP Rule Recession and No-Change Rules

This SHMTL contains four rules from Chapters 5101:6-1, 5101:6-2 and 5101:6-20 of the Administrative Code. These rules are being filed as part of a five-year rule review. The effective date of rule 5101:6-1-02 is October 1, 2018. The No-Change rules will keep the previous effective dates.

### SHM 1000.

#### **5101:6-1-02** "Hearings for the Title IV-A Funded Home Energy Assistance Program

(Title IV-A HEAP)." This rescinded rule sets forth the process by which an individual who applied for or receives Title IV-A Home Energy Assistance Program (HEAP) can request a fair hearing. The requirements to administer and operate the program was limited by time and funding via an interagency agreement between Ohio Department of Development and Ohio Department of Job and Family Services which ended in 2008. Thus, this rule is being rescinded.

**5101:6-2-51** "Notice of Interim Assistance Reimbursement." This no change rule sets forth the agency's notice requirements for individuals receiving supplemental security income (SSI) and public assistance.

### SHM 2000.

**5101:6-20-13** "Effect of a Pending Administrative Disqualification Hearing." This no change rule requires the local agency to make benefit determinations, despite a pending administrative disqualification hearing, to take action regarding an individual's case, and to issue notice, accordingly.

**5101:6-20-19** "Opportunity for Appeal of an Administrative Disqualification." This no change rule describes the legal remedies an individual has with respect to an adverse administrative disqualification hearing (ADH) decision. This rule also informs the individual of the opportunity for a new ADH if it is reversed by the court of common pleas.

### **SHM Instructions:**

Location	Remove	No Changes
SHM 1000	5101:6-1-02 (effective 10/1/2018)	
SHM 1000		5101:6-2-51 (effective 9/1/2008)
SHM 2000		5101:6-20-13 (effective 9/1/2008)
		5101:6-20-19 (effective 9/1/2008)

### **Fiscal Impact:**

The revisions to the rules in this clearance do not impose new requirements on county agencies, and the continued implementation of these rules should result in no fiscal impact on the county agencies.

### **Training Statement:**

The revisions to the rules in this clearance will not require training or technical assistance to be provided to local agencies by ODJFS. Clarification regarding these rules will be available to county staff through the Bureau of State Hearings staff, who can be reached via email at BSH-Rules@jfs.ohio.gov.

# SHMTL 34 (State Hearings – Changes to Managed Care Plan Related Hearings)

## State Hearings Manual Transmittal Letter (SHMTL) # 34

January 9, 2018

To: All State Hearings Manual Holders

From: Cynthia C. Dungey, Director

Subject: State Hearings – Changes to Managed Care Plan Related Hearings

This SHMTL contains two amended rules from Chapter 5101:6-3, one from Chapter 5101:6-4, three from Chapter 5101:6-5, two from Chapter 5101:6-6, two from Chapter 5101:6-7, one from Chapter 5101:6-8, and one from Chapter 5101:6-9; and two rescinded rules from Chapter 5101:6-2. The effective date of the rules is January 1, 2018.

### SHM 1000:

**5101:6-2-35** "State Hearings: Notice of a Managed Care Plan's Denial, Reduction, Suspension, or Termination of a Medical Service." This rule describes notices issued based on a managed care plan's denial, reduction, suspension, or termination of a medical service. This rule is rescinded pursuant to federal requirements stating that all adverse benefit determination notices and subsequent grievance or appeal resulting from that notice shall be administered through the managed care plans (MCPs) or MyCare Ohio plans (MCOPs) before accessing the Bureau of State Hearings appeal process. Adverse benefit determination notice, grievance, and appeal requirements are found in rule 5160-26-08.4 of the Administrative Code for managed care plans and rule 5160-58-08.4 of the Administrative Code for MyCare Ohio plans.

**5101:6-2-50** "State Hearings: Notice of Determinations Concerning Spouses Separated by Institutionalization." This rule describes notices issued based on an agency's review of eligibility for institutionalized Medicaid. This rule is rescinded at the request of the Ohio Department of Medicaid, who has taken over responsibility for the now obsolete notices and forms within this rule.

**5101:6-3-01** "State Hearings: Grounds for Requesting a State Hearing." This rule describes the process for requesting a state hearing for family services and public assistance programs. The rule is amended to specify closing fair hearing benefits is not grounds for requesting a state hearing. Also, language references related to adverse benefit determinations for MCPs or MCOPs is being reorganized to come into compliance with federal requirements stating all adverse benefit determination notices and subsequent grievances or appeals resulting from that notice shall be administered through the managed care plans (MCPs) or MyCare Ohio plans (MCOPs) before accessing the Bureau of State Hearings appeal process. However, the individual may request a state hearing when the individual disagrees with the MCP or MCOP appeal resolution decision. For reference, adverse benefit determination notice, grievance, and appeal requirements are found in rule 5160-26-08.4 of the Administrative Code for managed care plans and rule 5160-58-08.4 of the Administrative Code for MyCare Ohio plans. Finally, two grounds for child support services were eliminated, as these grounds are handled administratively through the child support enforcement agency (CSEA), and a clarification was made explaining noncustodial parents can request a state hearing when the CSEA denies a modification request.

**5101:6-3-02** "State Hearings: State Hearing Requests." This rule describes the basic elements of a valid state hearing request and includes deadlines for requesting a state hearing, due process rights, authorization to represent, rights under limited English proficiency and equal employment opportunity (EEO). The rule is being amended to specify acceptable written authorization legal documents and removes attorney permission to represent an individual without advance proper authorization. Language is added to clarify written authorization is nontransferable under certain circumstances. Also, language has been modified in accordance with federal regulations that now require a 120-day state hearing request time limit from the date of an MCP or MCOP adverse benefit determination appeal resolution. The 90-day requirement is still in effect for all other programs and issues.

**5101:6-4-01** "State Hearings: Continuation of Benefits When a State Hearing is Requested." This rule describes the manner in which continuation of benefits occurs and deadlines associated with receiving continued benefits. The amended rule removes language references related to adverse benefit

determinations for MCPs or MCOPs to come into compliance with federal requirements stating that all adverse benefit determination notices and subsequent grievance or appeal resulting from that notice shall be administered through the managed care plans (MCPs) or MyCare Ohio plans (MCOPs) before accessing the Bureau of State Hearings appeal process. The rule also offers an individual the opportunity to waive their right to continuation of benefits. For reference, adverse benefit determination notice, grievance, and appeal requirements are found in rule 5160-26-08.4 of the Administrative Code for managed care plans and rule 5160-58-08.4 of the Administrative Code for MyCare Ohio plans.

**5101:6-5-01** "State Hearings: Procedures Prior to the State Hearing." This rule describes the process for submitting state hearing requests to the Bureau of State Hearings (BSH), completing appeal summaries, performing county conferences, and other legal obligations of the parties. The amended rule clarifies MCPs and MCOPs shall also process state hearing requests within one day and forward them to BSH. The rule also requires MCPs and MCOPs to notify the Bureau of State Hearings within three calendar days of the state hearing request receive date when the member has not exhausted the grievance and appeal process pursuant to rule 5160-26-08.4 of the Administrative Code for managed care plans and rule 5160-58-08.4 of the Administrative Code for MyCare Ohio plans. References to forms and revision dates were corrected throughout the rule. Language was removed throughout the rule regarding an action or lack of action by a managed care plan to also come into compliance with federal regulations.

**5101:6-5-02** "State Hearings: Postponement of the State Hearing." This rule describes the process for postponing a state hearing. The rule is amended to add clarifying language that one postponement is permitted for food assistance issues.

**5101:6-5-03** "State Hearings: Denial and Dismissal of State Hearing Request." This rule describes the circumstances under which a state hearing request may be denied or dismissed. The amended rule states individuals are required to exhaust grievance and appeal remedies through other entities before coming to the Bureau of State Hearings for assistance. In circumstances where the individual has not utilized the initial grievance and appeal process, a state hearing request may be denied after a state hearing is scheduled, which aligns with federal and state requirements.

**5101:6-6-01** "State Hearings: Scheduling and Attendance." This rule describes the process for scheduling state hearings and outlines who is considered a party to the state hearing. The amended rule removes all references to action or lack of action and to the Bureau of Managed Care. Language is also changed to allow the Ohio Department of Medicaid to choose whether to receive notices from the Bureau of State Hearings.

**5101:6-6-02** "State Hearings: Rights and Responsibilities of the Participants." This rule describes the rights and responsibilities of participants to the state hearing. The amended rule changes the ordering of paragraph (A) to align with Legislative Services Commission (LSC) requirements. Language is added to clarify details around parties declining or not having to take the oath or affirmation.

**5101:6-7-01** "State Hearings: State Hearing Decisions." This rule describes the process for drafting and finalizing a state hearing decision. The amended rule adds MyCare Ohio to the expedited hearing process, to receiving notification, and to the binding effect of a state hearing decision. Language is removed regarding action or lack of action by managed care plans.

**5101:6-7-03** "State Hearings: Implementation of the Hearing Decision." This rule describes the process for implementing a state hearing decision and outlines obligations for local agencies with respect to compliance, overpayments, or underpayments. The amended rule removes references to the Bureau of Managed Care and leaving Ohio Department of Medicaid as the responsible party to assure timely compliance with the state hearing decision. Language is removed requiring the same time line for public assistance and food assistance to come into compliance with instruction from Food and Nutrition Services.

**5101:6-8-01** "State Hearings: Administrative Appeal of the State Hearing Decision." This rule describes the process for requesting an administrative appeal, continuing benefits, and drafting and finalizing the administrative appeal decision. The amended rule removes references to action or lack of action by a managed care plan, removes references to the Bureau of Managed Care and leaving in Ohio Department of Medicaid.

**5101:6-9-01** "State Hearings: Further Appeal Rights." This rule describes the process for requesting a judicial review after all departmental remedies have been exhausted and includes administrative



implementation of the court order. The amended rule removes references to action or lack of action by a managed care plan, removes references to the Bureau of Managed Care and leaving in Ohio Department of Medicaid.

**SHM Instructions:**

<b>Location</b>	<b>Remove</b>	<b>Insert/Replace</b>
SHM.1000	5101:6-2-35 (2/28/14)	N/A
	5101:6-2-50 (2/28/14)	N/A
	5101:6-3-01 (2/28/14)	5101:6-3-01(1/1/18)
	5101:6-3-02 (2/28/14)	5101:6-3-02 (1/1/18)
	5101:6-4-01 (2/28/14)	5101:6-4-01 (1/1/18)
	5101:6-5-01 (2/28/14)	5101:6-5-01 (1/1/18)
	5101:6-5-02 (2/28/14)	5101:6-5-02 (1/1/18)
	5101:6-5-03 (2/28/14)	5101:6-5-03 (1/1/18)
	5101:6-6-01 (2/28/14)	5101:6-6-01 (1/1/18)
	5101:6-6-02 (2/28/14)	5101:6-6-02 (1/1/18)
	5101:6-7-01 (2/28/14)	5101:6-7-01 (1/1/18)
	5101:6-7-03 (2/28/14)	5101:6-7-03 (1/1/18)
	5101:6-8-01 (2/28/14)	5101:6-7-03 (1/1/18)
	5101:6-9-01 (2/28/14)	5101:6-9-01 (1/1/18)

This information is also available on the Internet and may be accessed at:

**ODJFS Electronic Manuals:** <http://emanuals.odjfs.state.oh.us/emanuals/>

**InnerWeb Calendar:** <http://www.odjfs.state.oh.us/lpc/calendar/staff/>

**Internet Calendar:** <http://www.odjfs.state.oh.us/lpc/calendar/>

# SHMTL 33 (State Hearings - Comprehensive Case Management and Employment Program)

## State Hearings Manual Transmittal Letter (SHMTL) # 33

July 21, 2016

To: All State Hearings Manual Holders

From: Cynthia C. Dungey, Director

Subject: State Hearings - Comprehensive Case Management and Employment Program

This SHMTL contains one new rule in Chapter 5101:6-10, one amended rule each from Chapter 5101:6-2 and Chapter 5101:6-8 of the Administrative Code. A new form is also created. The effective date of these rules is July 25, 2016.

### SHM 1000:

**5101:6-2-04** "State Hearings: Prior Notice of Adverse Action." This rule describes when prior written notice is required based on an agency's action. The rule is being amended to allow electronic notification when it is permissible by federal or state law.

**5101:6-8-01** "State Hearings: Administrative Appeal of the State Hearing Decision." This rule describes the process of requesting an administrative appeal. The rule is being amended to allow electronic submission of an administrative appeal request. Also, reference to an internal system form was removed.

**5101:6-10-01** "State Hearings: Hearings for the Comprehensive Case Management and Employment Program." This new rule describes the process for requesting a hearing for services provided under the Comprehensive Case Management and Employment Program (CCMEP). The rule also describes the requirements for local agencies in preparing for a state hearing. Further appeal rights are also contained in this rule.

### FORMS:

**JFS 04086** "Comprehensive Case Management and Employment Program Appeal Summary." This form provides instructions to local agencies in preparing a summary describing the actions taken on an individual's CCMEP case. The local agency is responsible to submit the JFS 04086 and relevant documentation to the Bureau of State Hearings completing demographic information about the customer, reasons for local agency actions or inactions, a timeframe or review dates for the individual opportunity plan required for CCMEP services, a description of the services provided and the funding used, regulations supporting the action, and notice date information, if applicable. Local agencies are required to provide a copy of the CCMEP appeal summary and any attachments to the appellant and the appellant's authorized representative at least three days in advance of the scheduled hearing.

### SHM Instructions:

Location	Remove	Insert/Replace
SHM.1000	5101:6-2-04 (2/28/14)	<b><u>5101:6-2-04</u></b> (7/25/16)
	5101:6-8-01 (2/28/14)	<b><u>5101:6-8-01</u></b> (7/25/16)
		<b><u>5101:6-10-01</u></b> (7/25/16)
Forms		<b><u>JFS 04086</u></b> (7/2016)

This information is also available on the Internet and may be accessed at:

**ODJFS Electronic Manuals:** <http://emanuals.odjfs.state.oh.us/emanuals/>

**InnerWeb Calendar:** <http://www.odjfs.state.oh.us/lpc/calendar/staff/>

**Internet Calendar:** <http://www.odjfs.state.oh.us/lpc/calendar/>

# SHMTL 32 (Legal and Acquisition Services: HATS X Forms)

## State Hearings Manual Transmittal Letter (SHMTL) # 32

March 10, 2015

TO: All State Hearings Manual Holders  
From: Cynthia C. Dungey, Director  
Subject: Legal and Acquisition Services: HATS X Forms

This SHMTL contains ten internal forms that are newly created or revised for accuracy and compatibility with the new Hearings and Appeals Tracking System (HATS X). The effective date of the forms is January 2015, and the forms are being released in conjunction with the launch of HATS X.

**JFS 04007 "Administrative Disqualification Hearing Decision,"** effective 09/1994 is obsolete and replaced by **JFS 04007 "Administrative Disqualification Hearing Decision,"** effective 01/2015. This revised, internal form is created for accuracy and compatibility with the new HATS X system. It is the decision resulting from an administrative disqualification hearing being requested and subsequently conducted. The form notifies the accused whether or not he/she has been disqualified as a result of committing an intentional program violation.

**[JFS 04026](#) "Waiver of Administrative Disqualification Hearing,"** effective 05/2001, is obsolete and replaced by **"Waiver of Administrative Disqualification Hearing,"** effective 01/2015. It provides a customer accused of an intentional program violation to waive his/her right to an administrative disqualification hearing. The form describes the alleged acts of intentional program violation, a summary of the evidence supporting the allegation, and the penalties that would be imposed as a result of waiving the hearing.

**JFS 04027 "Disqualification Consent Agreement,"** effective 05/2002, is obsolete and replaced by **[JFS 04027](#) "Disqualification Consent Agreement,"** effective 01/2015. This revised, internal form is created for accuracy and compatibility with the new HATS X system. It provides a customer accused of an intentional program violation the opportunity to reach a disqualification agreement, foregoing the administrative disqualification hearing. The form describes the penalty that will be imposed and its effects (if any) on other members of the household.

**JFS 04044 "Intentional Program Violation Dismissal Notice,"** effective 01/2015 is a new, internal-use only form created for accuracy and compatibility with the new HATS X system. It notifies the county that the intentional program violation referral was rejected as incomplete. The form details the requirements that must be met to initiate an administrative disqualification hearing and specifies which of the requirements the county failed to meet.

**JFS 04058 "Explanation of Administrative Disqualification Hearing Procedures,"** effective 05/2002, is obsolete and replaced by **[JFS 04058](#) "Explanation of Administrative Disqualification Hearing Procedures,"** effective 01/2015. This is a revised, internal form created for accuracy and compatibility with the new HATS X system. It describes the process of an administrative disqualification hearing, as well as information relating to the right and responsibilities of the accused.

**JFS 04059 "Explanation of State Hearing Procedures,"** effective 10/2008, is obsolete and replaced by **[JFS 04059](#) "Explanation of State Hearing Procedures,"** "Waiver of Administrative Disqualification Hearing," effective 01/2015. This is a revised, internal form created for accuracy and compatibility with the new HATS X system. It describes the process of a state hearing, as well as information relating to subpoenas and compliance.

**JFS 04060 "Referral for Administrative Disqualification Hearing,"** effective 05/2001, is obsolete and replaced by **[JFS 04060](#) "Referral for Administrative Disqualification Hearing,"** effective 01/2015. This revised, internal form is created for accuracy and compatibility with the new HATS X system. It is used by counties to refer a suspected case of an intentional program violation to BSH for an administrative disqualification hearing. The form details relevant demographic information, a description of the acts of intentional program violation alleged, and the evidence supporting the allegation.

**JFS 04061 "Notice of Administrative Disqualification Hearing,"** effective 06/2001 is obsolete and replaced by [JFS 04061 "Notice to Appear for an Administrative Disqualification Hearing,"](#) effective 01/2015. This revised internal, form created for accuracy and compatibility with the new HATS X system. It notifies the customer that he/she has been accused by the county of committing an intentional program violation and that an administrative disqualification hearing has been scheduled as a result. The form provides the date, time, and location of the hearing, as well as the rights and responsibilities stemming from the procedure.

**JFS 04062 "Notice of Disqualification for Intentional Program Violation,"** effective 05/2001 is obsolete and replaced by [JFS 04062 "Notice of Disqualification for Intentional Program Violation,"](#) effective 01/2015. This revised, internal form is created for accuracy and compatibility with the new HATS X system. It notifies a customer that he/she has been disqualified because of having committed an intentional program violation. The form indicates the program area(s), duration, and amount of overpayment determined because of the administrative disqualification hearing.

**JFS 04064 "Notice to Appellant,"** effective 01/2014 is a new, supplemental form describing the appellant's rights once a hearing decision, administrative appeal decision, dismissal, or intentional program violation decision is rendered. The form provides dates and information regarding the state hearing process and subsequent appeal rights. **Instructions:**

Location	Remove	Insert
Forms	JFS 04007 (effective 9/1994)	<b>JFS 04007</b> (effective 1/2015)
	JFS 04026 (effective 5/2001)	<a href="#">JFS 04026</a> (effective 1/2015)
	JFS 04027 (effective 5/2002)	<a href="#">JFS 04027</a> (effective 1/2015)
		<b>JFS 04044</b> (effective 1/2015)
	JFS 04058 (effective 05/2002)	<a href="#">JFS 04058</a> (effective 1/2015)
	JFS 04059 (effective 10/2008)	<a href="#">JFS 04059</a> (effective 1/2015)
	JFS 04060 (effective 5/2001)	<a href="#">JFS 04060</a> (effective 1/2015)
	JFS 04061 (effective 6/2001)	<a href="#">JFS 04061</a> (effective 1/2015)
	JFS 04062 (effective 5/2001)	<a href="#">JFS 04062</a> (effective 1/2015)
		<b>JFS 04064</b> (effective 1/2015)

This information is also available on the Internet and may be accessed at:

**ODJFS Electronic Manuals:** <http://emanuals.odjfs.state.oh.us/emanuals/>

**InnerWeb Calendar:** <http://www.odjfs.state.oh.us/lpc/calendar/staff/>

**Internet Calendar:** <http://www.odjfs.state.oh.us/lpc/calendar/>

# SHMTL 31 (Legal and Acquisition Services: HATS X Forms)

## State Hearings Manual Transmittal Letter (SHMTL) # 31

March 10, 2015

TO: All State Hearings Manual Holders  
From: Cynthia C. Dungey, Director  
Subject: Legal and Acquisition Services: HATS X Forms

This SHMTL contains twenty internal forms that are newly created or revised for accuracy and for compatibility with the new Hearings and Appeals Tracking System (HATS X). The effective date of the forms is January 2015, and the forms are being released in conjunction with the launch of HATS X.

**JFS 04002 "State Hearing Schedule Notice,"** effective 09/2002 is obsolete and replaced by **JFS 04002 "Notice to Appear for Scheduled Hearing,"** effective 01/2015. This revised, internal form is created for accuracy and compatibility with the new HATS X system. The notice tells the appellant when the state hearing is scheduled. The notice provides the place, time, and date of the hearing, as well as explains the appellant's rights and responsibilities.

**JFS 04003 "Administrative Appeal Request,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form A." Use of the form is optional, as customers may still submit a written administrative appeal request by mail, fax, or e-mail. The form allows an appellant to request an administrative appeal and will only accompany a state hearing decision. The request also provides the appellant an opportunity to explain why the appellant believes the state hearing decision is incorrect.

**JFS 04004 "State Hearing Request Denial Notice,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form H." The notice instructs the appellant a request for a state hearing is denied in accordance with federal and/or state law, providing the specific reason and Ohio Administrative Code authority for the denial.

**JFS 04005 "State Hearing Decision,"** effective 03/2003 is obsolete and replaced by **JFS 04005 "State Hearing Decision,"** effective 01/2015. This revised, internal form is created for accuracy and compatibility with the new HATS X system. The form contains template language and is supplemented with information specific to the appellant's issue(s) from the scheduled state hearing. The form provides a summary of the facts of the case, the legal analysis as applied to the facts, and describes exhibits submitted by the agency or appellant.

**JFS 04006 "Subpoena Notice to Appear,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form R." The notice tells a witness to the hearing the witness is subpoenaed. The notice provides the place, time, and date of the hearing, as well as the rights and responsibilities resulting from the subpoena. The evidence necessary to the hearing and the Ohio Administrative Code authority for the subpoena is also listed on the form.

**JFS 04010 "Denial of Good Cause Waiver,"** effective 01/2008 is obsolete and replaced by **JFS 04010 "Insufficient Good Cause Notice,"** effective 01/2015. This revised, internal form is created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form K." The notice tells an appellant the documentation provided is insufficient to establish good cause for rescheduling a hearing. The notice also provides the specific reason and statutory authority for the denial of good cause.

**JFS 04013 "Administrative Appeal/County Review Decision,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form F." This multipurpose form is used for the decision resulting from an administrative appeal or county review. The administrative appeal decision is issued following an appellant or authorized representative requesting an administrative appeal of a state hearing decision. The county review decision is issued following an agency's request for a county review of a state hearing decision. The county review decision does not alter a state hearing outcome.

**JFS 04014 "Notice Dismissing a County Review Request,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form J." The notice tells the county its request for a county review is dismissed, providing the specific reason and Ohio Administrative Code authority for the dismissal.

**JFS 04015 "Notice Dismissing Your Administrative Appeal Request,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form I." The notice tells an appellant the request for an administrative appeal is denied, providing the specific reason and Ohio Administrative Code authority for the dismissal.

**JFS 04019 "Notice of Abandoned Hearing,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form B." The notice tells the appellant the scheduled state hearing is abandoned for failing to come to the scheduled state hearing and the appeal is dismissed. The form also provides the appellant and authorized representative an opportunity to provide good cause for the absence.

**JFS 04020 "Notice to Appear for a Mediation Scheduling Conference,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form L." The notice, used only for adoption assistance cases, tells an appellant a mediation conference is scheduled, providing the date, time, and location of the meeting.

**JFS 04028 "Record Left Open Notice,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form M." The notice tells the appellant the case record is left open to allow the appellant the opportunity to submit additional information. The form also describes the materials that must be submitted and provides a submission deadline.

**JFS 04029 "Postponement/Reschedule Request Denial Notice,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form N." The notice tells the appellant the request for a reschedule is denied, and the notice provides the specific reason and Ohio Administrative Code authority for the denial.

**JFS 04030 "Notice of Withdrawal,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form S." The notice tells the appellant the state hearing request, administrative appeal request, or administrative disqualification referral is withdrawn. The appellant retains the right to revoke their withdrawal and have the state hearing request reinstated within 10 days of the withdrawal date.

**JFS 04068 "State Hearing Compliance,"** effective 05/2001 is obsolete and replaced by **JFS 04068 "Order of Compliance Notice,"** effective 01/2015. This revised, internal form is created for accuracy and compatibility with the new HATS X system. The notice tells the agency what actions are required as a result of a state hearing decision and the date by which they must be taken in order to achieve compliance. The form also requires all documentation be submitted indicating the agency's compliance with the decision. This notice will accompany a state hearing decision, an administrative appeal decision, or a judicial review.

**JFS 04069 "State Hearing Request,"** effective 08/2003 is obsolete and replaced by **JFS 04069 "State Hearing Request,"** effective 01/2015. This revised, internal-use only form is created for accuracy and compatibility with the new HATS X system. The form is utilized by state and county staff to complete a verbal request for a state hearing within HATS X. Alternatively, customers still have the ability to submit paper requests by mail or electronic requests by fax or email.

**JFS 04071 "Notice About Your Request for a Compliance Review,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form C." When an appellant makes a complaint regarding the manner in which compliance is approved, this notice tells the appellant the agency did comply with the state hearing decision and no further action will be taken by the Bureau of State Hearings. Furthermore, the notice describes the rights of the appellant as a result of the compliance ruling. A copy of the form will also be sent to the agency.

**JFS 04072 "Reschedule Request Not Timely Denial Notice,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form

O." The notice tells the appellant the reschedule request is denied because the request is not timely, providing the Ohio Administrative Code authority for the denial.

**JFS 04073 "Subpoena Request Denial Notice,"** effective 01/2015 is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form Q." The notice is used after a hearing is scheduled and a valid subpoena, which is requested by a party to the case, is denied. The notice provides the specific reason and Ohio Administrative Code authority behind the denial.

**JFS 04075 "Compliance Rejection Notice,"** effective 01/2015, is a new, internal form created for accuracy and compatibility with the new HATS X system and replaces the clearance draft "Form D." The notice tells the agency it did not comply with a state hearing decision, providing the specific reason and Ohio Administrative Code authority for the rejection. A copy of the form will also be sent to the appellant and authorized representative.

**SHM Instructions:**

<b>Location</b>	<b>Remove</b>	<b>Insert</b>
	JFS 04002 (effective 09/2002)	<b>JFS 04002</b> (effective 01/2015)
		<b>JFS 04003</b> (effective 01/2015)
		<b>JFS 04004</b> (effective 01/2015)
	JFS 04005 (effective 03/2003)	<b>JFS 04005</b> (effective 01/2015)
		<b>JFS 04006</b> (effective 01/2015)
	JFS 04010 (effective 01/2008)	<b>JFS 04010</b> (effective 01/2015)
		<b>JFS 04013</b> (effective 01/2015)
		<b>JFS 04014</b> (effective 01/2015)
		<b>JFS 04015</b> (effective 01/2015)
		<b>JFS 04019</b> (effective 01/2015)
		<b>JFS 04020</b> (effective 01/2015)
		<b>JFS 04028</b> (effective 01/2015)
		<b>JFS 04029</b> (effective 01/2015)
		<b>JFS 04030</b> (effective 01/2015)
	JFS 04068 (effective 05/2001)	<b>JFS 04068</b> (effective 01/2015)
	JFS 04069 (effective 08/2003)	<b>JFS 04069</b> (effective 01/2015)
		<b>JFS 04071</b> (effective 01/2015)
		<b>JFS 04072</b> (effective 01/2015)
		<b>JFS 04073</b> (effective 01/2015)
		<b>JFS 04075</b> (effective 01/2015)

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# SHMTL 30 (State Hearings: State Hearings Process Rules)

## State Hearings Manual Transmittal Letter (SHMTL) #. 30

February 24, 2014

To: All State Hearings Manual Holders  
From: Cynthia C. Dungey, Director  
Subject: State Hearings: State Hearings Process Rules

This SHMTL contains 10 rules from Chapters 5101:6-1 through 5101:6-7 of the Administrative Code. These rules were amended as part of a five-year rule review.

The effective date of these rules is February 28, 2014.

### SHM 1000:

**5101:6-1-01** "State hearings: general." This amended rule describes the general hearing and appeal rights and procedures applicable to family services program benefits. The rule also provides general definitions applying to Chapters 5101:6-1 through 5101:6-9 of the Administrative Code. Changes include adding Medicaid as a separate agency, correcting program area names, and adding definitions to clarify or to further expand electronic processes.

**5101:6-3-01** "State hearings: grounds for requesting a state hearing." This amended rule describes the grounds by which an individual may request a state hearing. The rule is changed to include Medicaid authority for state hearings and correct departmental names.

**5101:6-3-02** "State hearings: state hearing requests." This amended rule sets forth definitions and time lines for requesting a state hearing. The rule also outlines how state hearings will process limited English proficiency and civil rights issues. The rule is changed to include Medicaid authority for state hearings and to make typographical corrections.

**5101:6-5-01** "State hearings: procedures prior to the state hearing." This amended rule sets forth the procedures prior to the state hearing, including where to send hearing requests, completing an appeal summary, the grounds for holding a county conference, the right to legal representation, accessing documents, and obtaining subpoenas. The changes to this rule include giving the individual the right to inspect the case record at least three days prior to the state hearing. The rule also clarifies a subpoena must come in writing to the Ohio Department of Job and Family Services.

**5101:6-5-02** "State hearings: postponement of the state hearing." This amended rule describes the process by which an individual may request a postponement of the state hearing. Changes are limited to making corrections to change the "Bureau of State Hearings" to "State Hearings," so we may standardize the terminology among the rules.

**5101:6-5-03** "State hearings: denial and dismissal of state hearing requests." This amended rule describes the process by which the Ohio Department of Job and Family Services will issue denial and dismissal notices to the individual and to the local agency. This rule also describes the "good cause" requirements for an individual who wishes to reschedule the hearing. Changes include removing an obsolete denial or dismissal form and providing a description of the form in its place.

**5101:6-6-01** "State hearings: scheduling and attendance." This amended rule sets forth the process by which a state hearing is scheduled and heard. The rule also outlines the notices required to be sent out by the Ohio Department of Job and Family services, as well as establishing requirements for agencies who participate in the hearing. Changes to the rule are limited to departmental name changes.

**5101:6-6-02** "State hearings: rights and responsibilities of the participants." This amended rule sets forth the rights and responsibilities of the participants to the state hearing. Changes to this rule include spelling out an acronym and correcting a form revision date.

**5101:6-7-01** "State hearings: state hearing decisions." This amended rule sets forth the requirements for how state hearing decisions are written and how issues are addressed and decided. Changes to this rule are limited to removal of an outdated form and correcting an incorporation by reference date.

**5101:6-7-03** "State hearings: implementation of the hearing decision." This amended rule describes Ohio Department of Job and Family Services' role and Ohio Department of Medicaid's role in ensuring compliance with a state hearing decision. The rule also sets forth the timeframe for local agencies and state agencies to complete their compliance reviews. Changes in this rule include standardizing references to "State Hearings" and correcting departmental names.

**SHM Instructions:**

<b>Location</b>	<b>Remove</b>	<b>Replace</b>
SHM 1000	5101:6-1-01 (effective 9/1/2008)	<a href="#"><u>5101:6-1-01</u></a> (effective 2/28/2014)
	5101:6-3-01 (effective 1/1/2012)	<a href="#"><u>5101:6-3-01</u></a> (effective 2/28/2014)
	5101:6-3-02 (effective 8/1/2010)	<a href="#"><u>5101:6-3-02</u></a> (effective 2/28/2014)
	5101:6-5-01 (effective 8/1/2010)	<a href="#"><u>5101:6-5-01</u></a> (effective 2/28/2014)
	5101:6-5-02 (effective 2/16/2012)	<a href="#"><u>5101:6-5-02</u></a> (effective 2/28/2014)
	5101:6-5-03 (effective 8/1/2010)	<a href="#"><u>5101:6-5-03</u></a> (effective 2/28/2014)
	5101:6-6-01 (effective 1/1/2012)	<a href="#"><u>5101:6-6-01</u></a> (effective 2/28/2014)
	5101:6-6-02 (effective 9/1/2008)	<a href="#"><u>5101:6-6-02</u></a> (effective 2/28/2014)
	5101:6-7-01 (effective 8/1/2010)	<a href="#"><u>5101:6-7-01</u></a> (effective 2/28/2014)
	5101:6-7-03 (effective 1/1/2012)	<a href="#"><u>5101:6-7-03</u></a> (effective 2/28/2014)

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# SHMTL 29 (State Hearings: Amended IPV Rules)

## State Hearings Manual Transmittal Letter (SHMTL) #. 29

February 24, 2014

TO: All State Hearings Manual Holders  
From: Cynthia C. Dungey, Director  
Subject: State Hearings: Amended IPV Rules

This SHMTL contains 14 rules from Chapters 5101:6-20 of the Administrative Code. These rules were amended as part of a five-year rule review. The effective date of these rules is February 28, 2014.

### SHM 2000.

[5101:6-20-01](#) "State hearings: disqualification for intentional program violation." This rule describes the circumstances under which an accused individual may be disqualified from receiving assistance for an intentional program violation. The rule also describes the situations in which a local agency shall and shall not initiate administrative disqualification procedures for intentional program violation. This rule is being amended to correct form revision dates, typographical errors, and reflect current nomenclature (food assistance instead of food stamps).

[5101:6-20-02](#) "State hearings: definition of intentional program violation." This rule defines intentional program violation in the OWF, food assistance, and PRC programs. This rule is being amended to correct typographical errors and reflect current nomenclature (food assistance instead of food stamps).

[5101:6-20-03](#) "State hearings: penalties for intentional program violation." This rule describes the penalties incurred as a result of an intentional program violation and the method by which the disqualification periods are determined. This rule is being amended to correct form revision dates, typographical errors, and reflect current nomenclature (food assistance instead of food stamps).

[5101:6-20-04](#) "State hearings: notification at application." This rule states that an assistance group is notified of disqualification penalties for intentional program violation upon each application for benefits and describes the method by which such notification shall be given. This rule is being amended to correct form revision dates and typographical errors.

[5101:6-20-10](#) "State hearings: initiating an administrative disqualification hearing." This rule describes how to initiate an administrative disqualification hearing. This rule is being amended to correct form revision dates and typographical errors.

[5101:6-20-12](#) "State hearings: advance notice of the administrative disqualification hearing." This rule states that an accused individual shall receive prior notice of an administrative disqualification hearing and describes the method by which such notification shall be given. This rule is being amended to correct typographical errors and references to the obsolete JFS 4064 were removed and replaced with clarifying language.

[5101:6-20-14](#) "State hearings: failure to attend the administrative disqualification hearing." This rule describes the consequences of an accused individual's failure to attend the administrative disqualification hearing. This rule is being amended to correct typographical errors and reflect current nomenclature.

[5101:6-20-15](#) "State hearings: administrative disqualification hearing procedures." This rule describes the provisions that apply to the process and conduct of administrative disqualification hearings. This rule is being amended to correct typographical errors.

[5101:6-20-16](#) "State hearings: administrative disqualification hearing decisions." This rule describes the authority under which administrative disqualification hearing decisions are issued, the necessary contents of said decisions, and the parties who will receive copies of said decisions. This rule is being amended to correct form revision dates and typographical errors.

[5101:6-20-17](#) "State hearings: implementation of the administrative disqualification hearing decision." This rule describes how an administrative disqualification hearing is implemented and how compliance is achieved. This rule is being amended to correct form revision dates, typographical errors, and reflect current nomenclature (food assistance instead of food stamps).

**5101:6-20-18** "State hearings: notice of disqualification for intentional program violation." This rule states that an assistance group is notified when the assistance group has been disqualified from receiving benefits as a result of an intentional program violation. The rule also describes the method by which such notification shall be given. This rule is being amended to correct form revision dates, typographical errors, and reflect current nomenclature (food assistance instead of food stamps).

**5101:6-20-30** "State hearings: waiver of administrative disqualification hearing." This rule describes the notice by which an accused individual may waive the right to an administrative disqualification hearing and the disqualification period which results from such a waiver. This rule is being amended to correct typographical errors and reflect current nomenclature (food assistance instead of food stamps).

**5101:6-20-40** "State hearings: disqualification consent agreement." This rule describes what a disqualification consent agreement should contain, when it is appropriate to use such an agreement, and the disqualification period which results from an accused individual signing such an agreement. This rule is being amended to correct typographical errors and reflect current nomenclature.

**5101:6-20-50** "State hearings: disqualification from the food assistance program based on court action." This rule states that an individual is notified when the individual is disqualified from the food assistance program based on court action and the method by which such disqualification is to be implemented. This rule is being amended to correct typographical errors and reflect current nomenclature (food assistance instead of food stamps).

**SHM Instructions:**

<b>Location</b>	<b>Remove</b>	<b>Replace</b>
SHM 2000	5101:6-20-01 (effective 9/1/2008)	<b><u><a href="#">5101:6-20-01</a></u></b> (effective 2/28/2014)
	5101:6-20-02 (effective 9/1/2008)	<b><u><a href="#">5101:6-20-02</a></u></b> (effective 2/28/2014)
	5101:6-20-03 (effective 9/1/2008)	<b><u><a href="#">5101:6-20-03</a></u></b> (effective 2/28/2014)
	5101:6-20-04 (effective 9/1/2008)	<b><u><a href="#">5101:6-20-04</a></u></b> (effective 2/28/2014)
	5101:6-20-10 (effective 9/1/2008)	<b><u><a href="#">5101:6-20-10</a></u></b> (effective 2/28/2014)
	5101:6-20-12 (effective 9/1/2008)	<b><u><a href="#">5101:6-20-12</a></u></b> (effective 2/28/2014)
	5101:6-20-14 (effective 9/1/2008)	<b><u><a href="#">5101:6-20-14</a></u></b> (effective 2/28/2014)
	5101:6-20-15 (effective 9/1/2008)	<b><u><a href="#">5101:6-20-15</a></u></b> (effective 2/28/2014)
	5101:6-20-16 (effective 9/1/2008)	<b><u><a href="#">5101:6-20-16</a></u></b> (effective 2/28/2014)
	5101:6-20-17	<b><u><a href="#">5101:6-20-17</a></u></b>

	(effective 9/1/2008)	(effective 2/28/2014)
	5101:6-20-18 (effective 9/1/2008)	<a href="#"><u>5101:6-20-18</u></a> (effective 2/28/2014)
	5101:6-20-30 (effective 9/1/2008)	<a href="#"><u>5101:6-20-30</u></a> (effective 2/28/2014)
	5101:6-20-40 (effective 9/1/2008)	<a href="#"><u>5101:6-20-40</u></a> (effective 2/28/2014)
	5101:6-20-50 (effective 9/1/2008)	<a href="#"><u>5101:6-20-50</u></a> (effective 2/28/2014)

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# SHMTL 28 (State Hearings: Amended Program Notice Rules)

## State Hearings Manual Transmittal Letter (SHMTL) #. 28

February 24, 2014

TO: All State Hearings Manual Holders  
From: Cynthia C. Dungey, Director  
Subject: State Hearings: Amended Program Notice Rules

This SHMTL contains 11 rules from Chapters 5101:6-2 of the Administrative Code. These rules were amended as part of a five-year rule review. The effective date of these rules is February 28, 2014.

### SHM 1000.

**5101:6-2-01** "State hearings: notice at the time of application." This rule states that an assistance group is to be notified at the time of application of its right to a state hearing and describes the method by which such notice shall be given. The rule is being amended to fix typographical errors and to reflect current nomenclature (food assistance instead of food stamps).

**5101:6-2-02** "State hearings: notice of approval of an application for benefits." This amended rule states that an assistance group is notified when its application for benefits has been approved and describes the method by which such notification shall be given. This rule is being amended to correct form revision dates, typographical errors, and reflect current nomenclature (food assistance instead of food stamps).

**5101:6-2-03** "State hearings: notice of denial of an application for benefits." This rule states that an assistance group is notified when its application for benefits has been denied and describes the method by which such notification shall be given. This rule is being amended to correct form revision dates, typographical errors, and reflect current nomenclature (food assistance instead of food stamps).

**5101:6-2-04** "State hearings: prior notice of adverse action." This rule states that an assistance group shall receive prior notification when adverse action is proposed by the local agency. The rule also describes the method by which such notification shall be given. This rule is being amended to correct form revision dates, typographical errors, and reflect current nomenclature (food assistance instead of food stamps).

**5101:6-2-05** "State hearings: exceptions to prior notice." This rule describes the exceptions to prior notice of proposed adverse action. This rule is being amended to correct form revision dates, typographical errors, and reflect current nomenclature (food assistance instead of food stamps).

**5101:6-2-06** "State hearings: notice of mass change in benefits." This rule states that an assistance group shall receive prior notice when a mass change will require an automatic adjustment of benefits, and the rule describes the method by which such notification shall be given. This rule is being amended to correct form revision dates, typographical errors, and reflect current nomenclature (food assistance instead of food stamps).

**5101:6-2-07** "State hearings: notice of the right to a state hearing – child support services." This amended rule states the notifications an assistance group receives from child support services (right to hearing, application acceptance or denial, termination of support order, and case closure), and the rule describes the method by which such notification shall be given.

**5101:6-2-08** "State hearings: notice whenever disagreement with an action or inaction is expressed." This rule states that an assistance group is reminded to request a hearing and/or provided a new application when disagreement with action or inaction is expressed. This rule is being amended to correct form revision dates and typographical errors.

**5101:6-2-20** "State hearings: notice of overpayment/overissuance." This rule states that an assistance group is notified when the local agency has determined there was an overpayment/overissuance and describes the method by which such notification shall be given. This rule is being amended to correct typographical errors and reflect current nomenclature (food assistance instead of food stamps).

**5101:6-2-25** "State hearings: notice of eligibility for lost food assistance benefits." This rule states that an assistance group is notified when a loss of food assistance benefits has occurred and describes the method

by which such notification shall be given. This rule is being amended to correct typographical errors and reflect current nomenclature (food assistance instead of food stamps).

**5101:6-2-26** "State hearings: notice of approval, denial or delay of replacement food assistance benefits."

This rule states that an assistance group is notified when its request for replacement benefits has been approved, denied, or delayed and describes the method by which such notification shall be given. This rule is being amended to correct form revision dates, typographical errors, and reflect current nomenclature (food assistance instead of food stamps).

**SHM Instructions:**

<b>Location</b>	<b>Remove</b>	<b>Replace</b>
SHM 1000	5101:6-2-01 (effective 9/1/2008)	<b><u>5101:6-2-01</u></b> (effective 2/28/2014)
	5101:6-2-02 (effective 12/15/2008)	<b><u>5101:6-2-02</u></b> (effective 2/28/2014)
	5101:6-2-03 (effective 12/15/2008)	<b><u>5101:6-2-03</u></b> (effective 2/28/2014)
	5101:6-2-04 (effective 9/1/2008)	<b><u>5101:6-2-04</u></b> (effective 2/28/2014)
	5101:6-2-05 (effective 9/1/2008)	<b><u>5101:6-2-05</u></b> (effective 2/28/2014)
	5101:6-2-06 (effective 8/1/2010)	<b><u>5101:6-2-06</u></b> (effective 2/28/2014)
	5101:6-2-07 (effective 9/1/2008)	<b><u>5101:6-2-07</u></b> (effective 2/28/2014)
	5101:6-2-08 (effective 9/1/2008)	<b><u>5101:6-2-08</u></b> (effective 2/28/2014)
	5101:6-2-20 (effective 9/1/2008)	<b><u>5101:6-2-20</u></b> (effective 2/28/2014)
	5101:6-2-25 (effective 9/1/2008)	<b><u>5101:6-2-25</u></b> (effective 2/28/2014)
	5101:6-2-26 (effective 9/1/2008)	<b><u>5101:6-2-26</u></b> (effective 2/28/2014)

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# SHMTL 27 (State Hearings - Administrative Appeal and County Review)

## State Hearings Manual Transmittal Letter (SHMTL) #. 27

February 24, 2014

To: All State Hearings Manual Holders  
From: Cynthia C. Dungey, Director  
Subject: State Hearings - Administrative Appeal and County Review

This SHMTL contains 3 rules from Chapters 5101:6-8 through 5101:6-9 of the Administrative Code. These rules were amended as part of a five-year rule review.

The effective date of these rules is February 28, 2014.

### SHM 1000:

**5101:6-8-01** "State hearings: administrative appeal of the state hearing decision." This amended rule governs the process for appealing a state hearing decision. The rule describes the methods and requirements of requesting an administrative appeal, and explains the various outcomes of that appeal. The changes to this rule include updates to revision dates, updates to agency names, the spelling out of acronyms, and minor changes in wording and punctuation that do not affect the substance of the rule.

**5101:6-8-02** "State hearings: county reviews." This amended rule governs the process for a county to appeal a state hearing decision through a process called county review. This rule explains the procedures and outcomes of the county review process. The only changes to this rule are minor wording changes in reference to the state hearings agency.

**5101:6-9-01** "State hearings: further appeal rights." This amended rule describes the further appeal rights an appellant has after a state hearing decision and/or administrative review have been issued. This rule describes what cases may be appealed, contains the requirements for requesting the appeal, and explains the procedure for requesting the appeal. The changes to this rule include minor wording changes in reference to the state hearings agency, updates to addresses, updates to agency names, and minor changes in wording and punctuation that do not affect the substance of the rule.

### SHM Instructions:

Location	Remove	Replace
SHM 1000	5101:6-8-01 (effective 9/1/2008)	<b><u>5101:6-8-01</u></b> (effective 2/28/2014)
	5101:6-8-02 (effective 9/1/2008)	<b><u>5101:6-8-02</u></b> (effective 2/28/2014)
	5101:6-9-01 (effective 9/1/2008)	<b><u>5101:6-9-01</u></b> (effective 2/28/2014)

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# SHMTL 26 (State Hearings – Medicaid Program Notices)

## State Hearings Manual Transmittal Letter (SHMTL) #. 26

February 24, 2014

To: All State Hearings Manual Holders  
From: Cynthia C. Dungey, Director  
Subject: State Hearings – Medicaid Program Notices

This SHMTL contains 6 rules from Chapters 5101:6-2 of the Administrative Code. These rules were amended as part of a five-year rule review.

The effective date of these rules is February 28, 2014.

### SHM 1000:

**5101:6-2-30** "State hearings: notice of medical determination." This amended rule describes the process in which a notice of a medical determination will be sent to an individual or their authorized representative. The rule explains the situations in which a notice is sent and contains the information included in that notice. The changes to this rule include updates in agency names, and minor changes in wording and punctuation which do not affect the substance of the rule.

**5101:6-2-31** "State hearings: notice of denial of prior authorization for medical or dental services." This amended rule governs the process for sending notification of denial to an individual who has requested prior authorization of medical or dental services. The rule explains who receives the notification and what information the notification contains. The changes to this rule include reorganization of the rule for clarity and minor changes in wording and punctuation which do not affect the substance of the rule.

**5101:6-2-32** "State hearings: notice of adverse preadmission screening and resident review (PASSR) determinations." This amended rule governs the process for sending notices for adverse preadmission screenings and resident review determinations. It describes what is contained in each notice, who receives the notice, and how the notice is delivered. The changes to this rule include updates in agency names, updates in acronyms, and minor changes in wording and punctuation which do not affect the substance of the rule.

**5101:6-2-35** "State hearings: notice of a managed care plan's denial, reduction, suspension, or termination of medical services." This amended rule governs the process for notices sent for denial, reduction, suspension, or termination of a managed care plan's medical service. This rule explains the timing of when the notice is sent and explains the specific forms and situations applicable to each action described in the notice. The changes to this rule include a corrected revision date indicator and minor changes in wording and punctuation which do not affect the substance of the rule.

**5101:6-2-36** "State hearings: notice of denial of just cause request for termination of managed care plan's membership." This amended rule governs the process for the sending notices of denial of a just cause request for termination of a managed care plan's membership. The rule explains why this notice is sent and what information is contained in the notice. The changes to this rule include updates in agency names, updates in acronyms, and minor changes in wording and punctuation which do not affect the substance of the rule.

**5101:6-2-50** "State hearings: notice of determinations concerning spouses separated by institutionalization." This amended rule governs the process for sending a notice of determinations concerning spouses separated by institutionalization. The rule explains what notices must be sent in these situations, to whom the notices must be sent, and what information the notices shall contain. The changes to this rule include changing CRIS-E to eligibility system, corrected revision dates, and minor changes in wording and punctuation which do not affect the substance of the rule.

### SHM Instructions:

<b>Location</b>	<b>Remove</b>	<b>Replace</b>
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SHM 1000	5101:6-2-30 (effective 09/01/2008)	<a href="#"><u>5101:6-2-30</u></a> (effective 2/28/2014)
	5101:6-2-31 (effective 09/01/2008)	<a href="#"><u>5101:6-2-31</u></a> (effective 2/28/2014)
	5101:6-2-32 (effective 09/01/2008)	<a href="#"><u>5101:6-2-32</u></a> (effective 2/28/2014)
	5101:6-2-35 (effective 08/01/2010)	<a href="#"><u>5101:6-2-35</u></a> (effective 2/28/2014)
	5101:6-2-36 (effective 09/01/2008)	<a href="#"><u>5101:6-2-36</u></a> (effective 2/28/2014)
	5101:6-2-50 (effective 09/01/2008)	<a href="#"><u>5101:6-2-50</u></a> (effective 2/28/2014)

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**Internet Calendar:** <http://www.odjfs.state.oh.us/lpc/calendar/>

# SHMTL 25 (State Hearings: No Change and Statutory Change Rules)

## State Hearings Manual Transmittal Letter (SHMTL) #. 25

February 24, 2014

TO: All State Hearings Manual Holders  
From: Cynthia C. Dungey, Director  
Subject: State Hearings: No Change and Statutory Change Rules

This SHMTL contains two rules from Chapter 5101:6-2, one rule from Chapter 5101:6-4, two rules from Chapter 5101:6-6, one rule from Chapter 5101:6-7, and three rules from Chapter 5101:6-20 of the Administrative Code. These rules were filed as part of a five-year rule review. The effective date of the amended rules is February 28, 2014. The effective date of the no change rules remains September 1, 2008.

### SHM 1000.

**5101:6-2-40** "State Hearings: Coordinated Services Program State Hearing and Notice Requirements". This amended rule sets forth the hearing process for the Medicaid "Coordinated Services Program" (CSP). The rule includes hearing and notice rights associated with proposed enrollment into the CSP, continued enrollment into the CSP, and denial of a designated provider change. Changes are limited to correcting references from Ohio Department of Job and Family Services to Ohio Department of Medicaid. Also, statutory citations were corrected.

**5101:6-2-51** "Notice of Interim Assistance Reimbursement". This no change rule sets forth the agency's notice requirements for individuals receiving supplemental security income (SSI) and public assistance.

**5101:6-4-01** "Continuation of Benefits when a State Hearing is Requested". This amended rule sets forth the grounds by which an individual is, or is not, entitled to receive fair hearing benefits when a hearing request is received timely. This rule also encompasses benefits received under a Medicaid fee-for-service provider or a managed care plan. Changes are limited to update Administrative Code citations and statutory references to Medicaid.

**5101:6-6-03** "Tape Recording of the Hearing". This amended rule explains the recording of the hearing is not an official part of the hearing record. The rule also describes the period of time in which a taped recording of a state hearing is retained by state hearings. Finally, the rule also describes the availability of rehearing a case when the taped recording is inaudible. Rule changes are limited to correcting statutory amplification to reference Medicaid.

**5101:6-6-04** "Telephone Hearings and Hearings Involving Participation by Telephone". This amended rule describes the process by which an individual and local agency may participate in the state hearing by telephone. It also informs the parties how evidence would be collected and made available to the hearing officer. Finally, it requires the hearing officer to provide a description of the evidence made available to the parties during the phone hearing. Changes are limited to adding Medicaid to the statutory amplification.

**5101:6-7-02** "Standards for Revising Community Spouse Income and Resource Allowances at a State Hearing". This amended rule sets forth the standards by which an individual receiving Medicaid can request a state hearing regarding the community spouse's minimum monthly maintenance needs allowance (MMMNA) or the community spouse resource allowance (CSRA). This rule also describes the method by which the hearing officer would calculate an amended MMMNA or CSRA. Finally, the rule informs the individual a hearing will be overruled if the individual has not availed himself or herself of all available sources of income. Changes include correcting Administrative Code citations and statutory amplification.

### SHM 2000.

**5101:6-20-11** "State hearings: consolidation of an administrative disqualification hearing with a state hearing". This rule sets forth the process by which an individual can combine a state hearing with an administrative disqualification hearing. The rule allows the individual to waive the 30-day advance notice period, and it requires Ohio Department of Job and Family Services to issue two separate decisions, based on the respective issues.

This rule is being amended to add 5160.011 to the statutory amplification.

**5101:6-20-13** "Effect of a Pending Administrative Disqualification Hearing". This no change rule requires the local agency to make benefit determinations, despite a pending administrative disqualification hearing, to take action regarding an individual's case, and to issue notice, accordingly.

**5101:6-20-19** "Opportunity for Appeal of an Administrative Disqualification". This no change rule describes the legal remedies an individual has with respect to an adverse administrative disqualification hearing (ADH) decision. This rule also informs the individual of the opportunity for a new ADH if it is reversed by the court of common pleas.

**SHM Instructions:**

<b>Location</b>	<b>Remove</b>	<b>Insert/Replace</b>
SHM 1000	5101:6-2-40 (effective 1/1/2012)	<b><u>5101:6-2-40</u></b> (effective 2/28/2014)
		<b><u>5101:6-2-51</u></b> (effective 9/1/2008)
	5101:6-4-01 (effective 1/1/2012)	<b><u>5101:6-4-01</u></b> (effective 2/28/2014)
	5101:6-6-03 (effective 9/1/2008)	<b><u>5101:6-6-03</u></b> (effective 2/28/2014)
	5101:6-6-04 (effective 9/1/2008)	<b><u>5101:6-6-04</u></b> (effective 2/28/2014)
	5101:6-7-02 (effective 9/1/2009)	<b><u>5101:6-7-02</u></b> (effective 2/28/2014)
SHM 2000	5101:6-20-11 (effective 9/1/2008)	<b><u>5101:6-20-11</u></b> (effective 2/28/2014)
		<b><u>5101:6-20-13</u></b> (effective 9/1/2008)
		<b><u>5101:6-20-19</u></b> (effective 9/1/2008)

This information is also available on the Internet and may be accessed at:

**ODJFS Electronic Manuals:** <http://emanuals.odjfs.state.oh.us/emanuals/>

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**Internet Calendar:** <http://www.odjfs.state.oh.us/lpc/calendar/>

# SHMTL 24 (State Hearings: Title IV-A Funded (HEAP))

## State Hearings Manual Transmittal Letter (SHMTL) #. 24

February 24, 2014

TO: All State Hearings Manual Holders

From: Cynthia C. Dungey, Director

Subject: State Hearings: Title IV-A Funded Home Energy Assistance Program (HEAP)

This SHMTL contains one rule from Chapter 5101:6-1 of the Administrative Code. The effective date of this rule is the last effective date, which is January 27, 2006.

### SHM 1000.

**5101:6-1-02** "Hearings for the Title IV-A Funded Home Energy Assistance Program (Title IV-A HEAP)" is adopted as a "no change" rule. This rule sets forth the process by which an individual who applied for or receives Title IV-A Home Energy Assistance Program (HEAP) can request a fair hearing. The rule also outlines the process by which the Department of Development and/or the Ohio Department of Job and Family Services (ODJFS) shall conduct the review of the IV-A HEAP application, HEAP eligibility notice requirements, time frames, and notification during a program suspension. Finally, ODJFS shall be responsible to issue a timely fair hearing decision.

### **SHM Instructions:**

<b>Location</b>	<b>Remove</b>	<b>Insert/Replace</b>
SHM 1000		<b><u>5101:6-1-02</u></b> (effective 1/27/2006)

This information is also available on the Internet and may be accessed at:

**ODJFS Electronic Manuals:** <http://emanuals.odjfs.state.oh.us/emanuals/>

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**Internet Calendar:** <http://www.odjfs.state.oh.us/lpc/calendar/>

# SHMTL 23 (Postponement of the State Hearing)

## State Hearings Manual Transmittal Letter (SHMTL) No. 23

February 9, 2012

TO: State Hearings Manual (SHM) Holders

FROM: Michael B. Colbert, Director

SUBJECT: Postponement of the State Hearing

This letter transmits amendment to state hearings rule [5101:6-5-02](#) of the Administrative Code. The rule is being amended to provide clarification, update, and to bring consistency with requirements of law.

Rule 5101:6-5-02, entitled **Postponement of the state hearing**, sets forth the conditions under which an applicant for, or recipient of, services from ODJFS programs may request postponement of a state hearing. Changes have been made to paragraph (A)(1) to align with Revised Code requirements. The change to the rule clarifies the definition of postponement.

Instructions:

Location	Remove and File as Obsolete	Insert
SHM 1000 State Hearings Policy	5101:6-5-02 Effective 9/1/08	<a href="#">5101:6-5-02</a> Effective 2/16/12

# SHMTL 22 (State Hearings: Coordinated Services Program)

## State Hearings Manual Transmittal Letter (SHMTL) No. 22

January 26, 2012

To: All State Hearings Manual Holders  
From: Michael B. Colbert, Director  
Subject: State Hearings: Coordinated Services Program

Amended Substitute House Bill 93 of the 129th General Assembly requires state agencies to establish and modify laws regarding the prevention of prescription drug abuse. ODJFS is required to adopt rules implementing a Coordinated Services Program (CSP) for Medicaid consumers who have received prescription drugs at a frequency or in an amount that is not medically necessary. The Medicaid rules implemented the CSP earlier than the statute requires, and also permit ODJFS to assign Medicaid consumers to a single primary provider of physician services. The Bureau of State Hearings establishes Medicaid consumer hearing rights and ODJFS notice requirements as it relates to the CSP.

The effective date of the rules is January 1, 2012.

### SHM 1000.

[5101:6-2-37](#) "Notices of enrollment, continued enrollment, or provider change denial for the managed care plan controlled substances and member management program", is rescinded and part of this rule is incorporated into new rule 5101:6-2-40, "State Hearings: Coordinated services program state hearing and notice requirements."

[5101:6-2-40](#) "State Hearings: Coordinated services program state hearing and notice requirements", is rescinded and made new to introduce the hearing process for Medicaid's CSP. This rule includes hearing and notices rights associated with proposed enrollment into the CSP, continued enrollment into the CSP, and denial of a designated provider change. This rule also replaces part of rule 5101:6-2-37 of the Administrative Code.

[5101:6-3-01](#) "*Grounds for requesting a state hearing*", is amended and describes the grounds for individuals requesting a state hearing, as it relates to public and medical assistance programs. Changes are limited to strikeouts and name changes reflecting Medicaid's CSP.

[5101:6-4-01](#) "*Continuation of benefits when a state hearing is requested*", is amended and describes when a continuation of public assistance or medical assistance benefits occurs during the state hearing process. Changes are limited to strikeouts and name changes reflecting Medicaid's CSP.

[5101:6-6-01](#) "*Scheduling and attendance*", is amended and describes the state hearing scheduling and attendance process for consumers applying or receiving public assistance or medical assistance benefits. Changes are limited to strikeouts and name changes for Medicaid's CSP. The County Departments of Job and Family Services shall continue to use the form JFS 04068 "State Hearing Compliance" (rev. 05/2001) to certify compliance is achieved.

[5101:6-7-03](#) "*Implementation of the hearing decision*," is amended and describes how a state hearing decision as it relates to public assistance or medical assistance benefit occurs during the state hearing process. Changes are limited to strikeouts and name changes of Medicaid's CSP. ODJFS will continue to use the form JFS 04002 "State Hearing Scheduling Notice" (rev. 09/2002) for scheduling consumer appointments.

### FORMS:

[JFS 01704](#) "*Notice of Proposed Enrollment in the Controlled Substances and Member Management (CSMM) Program by Your Managed Care Plan*", effective 07/2009, is obsolete and replaced by JFS 01704 "Notice of Proposed Enrollment in the Coordinated Services Program (CSP) by ODJFS or by Your Managed Care Plan (MCP)", effective 07/2011.

[JFS 01705](#) "*Notice of Continued Enrollment in the Controlled Substances and Member Management (CSMM) Program by Your Managed Care Plan*", effective 07/2009, is obsolete and replaced by JFS 01705 "Notice of

Continued Enrollment in the Coordinated Services (CSP) by ODJFS or by Your Managed Care Plan (MCP)," effective 07/2011.

**JFS 01706** "Notice of Denial of Designated Provider Change in the Controlled Substances and Member Management (CSMM) Program by Your Managed Care Plan," effective 07/2009, is obsolete and replaced by JFS 01706 "Notice of Denial of Designated Provider or Pharmacy Change in the Coordinated Services (Program) by ODJFS or by your Managed Care Plan (MCP)," effective 07/2011.

**JFS 04028** "Notice of Proposed Enrollment in the Primary Alternative Care and Treatment Program", effective 04/2003, is rescinded and replaced by **JFS 01704** "Notice of Proposed Enrollment in the Coordinated Services Program (CSP) by ODJFS or by Your Managed Care Plan (MCP)", effective 07/2011.

**JFS 04029** "Notice of Denial of Designated Provider Change for Primary Alternative Care and Treatment (PACT) Program", effective 03/2003, is obsolete and replaced by **JFS 01706** "Notice of Denial of Designated Provider or Pharmacy Change in the Coordinated Services (Program) by ODJFS or by your Managed Care Plan (MCP)," effective 07/2011.

**JFS 04030** "Notice of Proposed Continued Enrollment Primary Alternative Care and Treatment (PACT) Program", effective 04/2003, is rescinded and replaced by **JFS 01705** "Notice of Continued Enrollment in the Coordinated Services (CSP) by ODJFS or by Your Managed Care Plan (MCP)," effective 07/2011.

**SHM Instructions:**

<b>Location</b>	<b>Remove</b>	<b>Replace</b>
SHM 1000.	<a href="#"><u>5101:6-2-37</u></a> (effective 8/1/10)	N/A
	5101:6-2-40 (effective 9/1/08)	<a href="#"><u>5101:6-2-40</u></a> (effective 1/1/2012)
	5101:6-3-01 (effective 8/1/10)	<a href="#"><u>5101:6-3-01</u></a> (effective 1/1/2012)
	5101:6-4-01 (effective 8/1/10)	<a href="#"><u>5101:6-4-01</u></a> (effective 1/1/2012)
	5101:6-6-01 (effective 9/1/08)	<a href="#"><u>5101:6-6-01</u></a> (effective 1/1/2012)
	5101:6-7-03 (effective 9/1/08)	<a href="#"><u>5101:6-7-03</u></a> (effective 1/1/2012)
Forms	JFS 01704 (effective 07/2009)	<a href="#"><u>JFS 01704</u></a> (effective 07/2011)
	JFS 01705 (effective 07/2009)	<a href="#"><u>JFS 01705</u></a> (effective 07/2011)
	JFS 01706 (effective 07/2009)	<a href="#"><u>JFS 01706</u></a> (effective 07/2011)
	JFS 04028 (effective 04/2003)	N/A
	JFS 04029 (effective 03/2003)	N/A
	JFS 04030 (effective 04/2003)	N/A

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# SHMTL 21 (Revisions to State Hearings Forms JFS 04074 and JFS 07334)

## State Hearings Manual Transmittal Letter (SHMTL) No. 21

September 6, 2011

TO: State Hearings Manual (SHM) Holders  
FROM: Michael B. Colbert, Director  
RE: Revisions to State Hearings Forms JFS 04074 and JFS 07334

In an effort to improve consumer access to the Bureau of State Hearings, the attached forms have been revised to improve language consistency and to update information about the availability of free legal services for consumers applying for or receiving family services program benefits. Consumers can contact the local Legal Aid office by phoning 1-866-LAW-OHIO (1-866-529-6446) or by searching the Legal Aid internet directory at: <http://www.ohiolegalservices.org/programs>.

The forms associated with this transmittal are effective September 1, 2011.

### Forms

**JFS 04074** "Notice of Approval of Your Application for Assistance," effective 02/2009, is obsolete and replaced by **JFS 04074** "Notice of Approval of Your Application for Assistance," effective 09/2011. This form is not used for food assistance approvals.

**JFS 07334** "Notice of Denial of Your Application for Assistance," effective 02/2009, is obsolete and replaced by **JFS 07334** "Notice of Denial of Your Application for Assistance," effective 09/2011. This form is not used for food assistance denials, or for terminations of cash or medical assistance.

### **SHM Instructions:**

<b>Location</b>	<b>Remove/Obsolete</b>	<b>Replace/Insert</b>
SHM Appendix	JFS 04074 (eff. 02/2009)	<a href="#">JFS 04074</a> (eff. 09/2011)
	JFS 07334 (eff. 02/2009)	<a href="#">JFS 07334</a> (eff. 09/2011)

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# SHMTL 20 (Updates and Clarifications to Rules for State Hearings)

## State Hearings Manual Transmittal Letter (SHMTL) No. 20

July 28, 2010

TO: State Hearings Manual (SHM) Holders  
FROM: Douglas E. Lumpkin, Director  
SUBJECT: Updates and Clarifications to Rules for State Hearings

This letter transmits ten amended rules for state hearings conducted by the Ohio Department of Job and Family Services (ODJFS) under Chapters 5101:6-1 to 5101:6-9 of the Ohio Administrative Code. The rules are effective August 1, 2010.

Rule [5101:6-1-01](#), entitled "State hearings - general," sets forth definitions and general provisions for state hearings. This rule was amended to update definitions and terminology. Changes to the rule include adding "a private or government entity administering, in whole or in part, a family services program" to the definition of "local agency," and updating terminology, such as changing "food stamps" to "food assistance."

Rule [5101:6-2-06](#), entitled "Notice of mass change in benefits," sets forth the changes in benefits to recipients of services from programs under the Ohio Department of Job and Family Services for which prior written notice of the changes is required, and sets forth the requirements for the content of the notice. This rule was amended to clarify and update policy. Changes to the rule include changing the title of the rule; adding clarifying language in regard to the notice for an adjustment in benefits, other than food assistance, due to a change in local agency policy; and inserting a reference to federal regulations in regard to the notice for a mass change in the food assistance program.

Rule [5101:6-2-35](#), entitled "Notice of a managed care plan's denial, reduction, suspension, or termination of a medical service," sets forth the hearing rights and requirements for notification regarding a Medicaid managed care plan's denial, reduction, suspension, or termination of a medical service. This rule was amended to update policy concerning notices to members of Medicaid managed care plans (defined in rule [5101:3-26-01](#) of the Administrative Code). There are two changes to the rule. The first change is removing the language that the managed care plan send to the unit within the Ohio Department of Job and Family Services administering the Medicaid managed care program, a copy of all notices of denial, reduction, suspension, and termination that the managed care plan sends to members of the managed care plan. That language is being removed because it is in rule [5101:3-26-08.4](#), and, therefore, is not needed in rule 5101:6-2-35. The second change is requiring the managed care plan to mail to the enrollee a notice of denial of payment whenever the provider is billing an enrollee for a service due to denial of payment by the managed care plan.

Rule [5101:6-2-37](#), entitled "Notices of enrollment, continued enrollment, or provider change denial for the managed care plan controlled substances and member management program," requires a Medicaid managed care plan to provide written notification and hearing rights when it enrolls an individual in the controlled substances and member management (CSMM) program, determines that enrollment for an individual already in the CSMM program should continue, or denies an individual's request for a change in that individual's designated provider. This rule was amended to update policy concerning notices to members of the CSMM program (defined in rule [5101:3-26-01](#) of the Administrative Code). There are two changes to the rule. The first change is removing the language that the managed care plan send to the unit within the Ohio Department of Job and Family Services administering the Medicaid managed care program, a copy of all notices of enrollment, continued enrollment, or provider change denial that the managed care plan sends to members of the managed care plan. That language is being removed because it is in rule [5101:3-26-08.4](#), and, therefore, is not needed in rule 5101:6-2-37. The second change is updating the revision dates for ODJFS forms referenced in the rule.

Rule [5101:6-3-01](#), entitled "Grounds for requesting a state hearing," sets forth the reasons an applicant for, or recipient of, services from programs administered by the Ohio Department of Job and Family Services, may request a state hearing. This rule was amended to clarify existing policy. Changes to the rule include rearrangement of existing rule content to enhance readability.

Rule [5101:6-3-02](#), entitled "State hearing requests," sets forth requirements concerning the method for requesting state hearings and the time limit for requests. This rule was amended to update terminology within the rule. The only changes to the rule are changes to update terminology, such as changing "food stamp" to "food assistance."

Rule [5101:6-4-01](#), entitled "Continuation of benefits when a state hearing is requested," sets forth the conditions where benefits will continue until a state hearing decision is rendered for a proposed adverse action. This rule was amended to update terminology and clarify policy relating to the administration of state hearings. Changes to the rule include changing "food stamp" to "food assistance," clarifying the definition of "reinstatement of benefits to the previous level" and clarifying the responsibilities of the bureau of state hearings and local agency in regard to the reinstatement of benefits, and clarifying the responsibilities of the child support enforcement agency (CSEA) while a state hearing decision is pending.

Rule [5101:6-5-01](#), entitled "Procedures prior to the state hearing," sets forth procedures that are to be carried out before the scheduled state hearing, including, but not limited to, hearing requests made to the bureau of state hearings; the local agency or medical determination unit preparing an appeal summary; the local agency arranging a county conference; the client and local agency being granted the right to legal representation at the state hearing; and the client with limited proficiency in English granted the right to request and have an interpreter at the hearing and to request and have translation of the written hearing decision. This rule was amended to clarify existing policy and to update the policy on county conferences relative to the appeal and grievance process for Medicaid managed care plans. Changes to the rule include rearranging existing rule content to enhance readability and adding the provision that, for a Medicaid managed care plan, the managed care plan appeal or grievance process substitutes for the county conference requirement.

Rule [5101:6-5-03](#), entitled "Denial and dismissal of state hearing requests," sets forth the reasons a request for a state hearing may be denied or dismissed, the time frame during which a request may be denied or dismissed, and the requirements for proper notice of the denial or dismissal. This rule was amended to update terminology within the rule. The only changes to the rule are changes to update terminology, such as changing "food stamp" to "food assistance," and updating the revision date of a JFS form cited in the rule.

Rule [5101:6-7-01](#), entitled "State hearing decisions," sets forth the responsibilities of the hearing authority, the time frame in which hearing decisions are required to be issued, the content of the hearing decision, notification to the person requesting the hearing, retention of the hearing record, and the binding effect of a hearing decision. This rule was amended to add an expedited hearing provision for state hearings that involve a Medicaid managed care plan. Changes to the rule include clarifying that the chief of the bureau of state hearings is a hearing authority; and adding that hearing decisions are required to be issued three working days from the date of the hearing request when the hearing request is from an enrollee of a Medicaid managed care plan; the enrollee, or the enrollee's authorized representative, claims that the request requires an expedited resolution; and the Bureau of State Hearings, Ohio Department of Job and Family Services, agrees that an expedited resolution is required.

Instructions:

Location	Remove and File as Obsolete	Insert
SHM 1000 State Hearings Policy	5101:6-1-01 effective 9/1/08	<a href="#">5101:6-1-01</a> effective 8/1/10
	5101:6-2-06 effective 9/1/08	<a href="#">5101:6-2-06</a> effective 8/1/10
	5101:6-2-35 effective 7/1/09	<a href="#">5101:6-2-35</a> effective 8/1/10
	5101:6-2-37 effective 5/1/09	<a href="#">5101:6-2-37</a> effective 8/1/10

	5101:6-3-01 effective 9/1/08	<a href="#"><u>5101:6-3-01</u></a> effective 8/1/10
	5101:6-3-02 effective 9/1/08	<a href="#"><u>5101:6-3-02</u></a> effective 8/1/10
	5101:6-4-01 effective 7/1/09	<a href="#"><u>5101:6-4-01</u></a> effective 8/1/10
	5101:6-5-01 effective 7/1/09	<a href="#"><u>5101:6-5-01</u></a> effective 8/1/10
	5101:6-5-03 effective 9/1/08	<a href="#"><u>5101:6-5-03</u></a> effective 8/1/10
	5101:6-7-01 effective 9/1/08	<a href="#"><u>5101:6-7-01</u></a> effective 8/1/10

# SHMTL 19

## State Hearings Manual Transmittal Letter (SHMTL) No. 19

September 3, 2009

TO: State Hearings Manual (SHM) Holders

FROM: Douglas E. Lumpkin, Director

SUBJECT: Standards for Revising Community Spouse Income and Resource Allowances at a State Hearing

This letter transmits new rule [5101:6-7-02](#) "Standards for revising community spouse income and resource allowances at a state hearing," effective September 1, 2009. The new rule replaces rule 5101:6-7-02 "Hearings involving couples separated by institutionalization," rescinded effective September 1, 2009.

The new rule sets forth the standards to be applied in a state hearing requested for the purpose of revising a Medicaid community spouse's minimum monthly maintenance needs allowance in accordance with rule [5101:1-39-24](#), or the community spouse resource allowance in accordance with rule [5101:1-39-36.1](#). In so doing, this rule incorporates by reference the definitions set forth in those rules and the standards for evaluating income and resources.

It clarifies existing procedures and includes changes in response to a recent federal statutory change in 42 U.S.C. 1396r-5. That section requires each state to make the income of the institutionalized spouse available to a community spouse for purposes of satisfying the community spouse monthly income allowance. This requirement effectively reduces the instances in which more resources of the institutionalized spouse must be made available to the community spouse in order to satisfy the community spouse income allowance. The new standard is in rule [5101:1-39-24](#), and the adoption of new rule 5101:6-7-02 makes the two rules consistent.

Location	Remove and File as Obsolete	Insert
SHM 1000 State Hearings Policy	5101:6-7-02 effective 6/1/03	<a href="#">5101:6-7-02</a> effective 9/1/09

# SHMTL 18

## State Hearings Manual Transmittal Letter (SHMTL) No. 18

July 1, 2009

TO: State Hearings Manual (SHM) Holders

FROM: Douglas E. Lumpkin, Director

SUBJECT: Amendments Concerning Members of Medicaid Managed Care Plans and Individuals in the Controlled Substances and Member Management Program

This letter transmits amended rules 5101:6-2-35 and 5101:6-4-01, effective July 1, 2009, five revised forms, and one new form, concerning hearing rights for members of Medicaid managed care plans (MCPs) and individuals enrolled by an MCP in the controlled substances and member management (CSMM) program defined in rule [5101:3-26-01](#) of the Administrative Code.

The rules and forms are associated with rule [5101:6-2-37](#) "Notices of enrollment, continued enrollment, or provider change denial for the managed care plan controlled substances and member management program," effective May 1, 2009 and transmitted via [SHMTL No. 16](#).

Rule [5101:6-2-35](#), "Notice of a managed care plan's denial, reduction, or termination of a medicaid-covered service," sets forth the hearing rights and requirements for prior notification regarding an MCP's denial, reduction, or termination of a medicaid-covered service. The change to the rule is updating the numbers and titles of forms referenced in the rule to match the form changes described in this SHMTL.

Rule [5101:6-4-01](#), "Continuation of benefits when a state hearing is requested," sets forth the conditions where benefits will continue until a state hearing decision is rendered for a proposed adverse action. Changes to the rule include adding certain adverse actions for members of an MCP and individuals enrolled in a CSMM to the list of conditions where benefits will continue pending a hearing decision.

The [JFS 01704](#) (rev. 7/2009), "Notice of Proposed Enrollment in the Controlled Substances and Member Management Program by Your Managed Care Plan," is used when an MCP intends to enroll an individual in the CSMM program, as described in rule [5101:6-2-37](#).

The [JFS 01705](#) (rev. 7/2009), "Notice of Continued Enrollment in the Controlled Substances and Member Management Program by Your Managed Care Plan," is used when an MCP determines that enrollment should continue after the end of the enrollment period, as described in rule [5101:6-2-37](#).

The [JFS 01706](#) (rev. 7/2009), "Notice of Denial of Designated Provider Change in the Controlled Substances and Member Management Program by Your Managed Care Plan," is used when the managed care plan (MCP) denies a members request for change of a designated provider, as described in rule [5101:6-2-37](#).

The previously existing JFS 04043 (rev. 7/2008), "Notice of Denial, Reduction, Suspension, or Termination of Medical Services by Your Managed Care Plan," was split into two different forms because continuation of MCP is not available for service denials. Therefore, there is now the [JFS 04043](#) (rev. 7/2009), "Notice of Denial of Medical Services by Your Managed Care Plan" and the [JFS 04066](#) (7/2009), "Notice of Reduction, Suspension, or Termination of Medical Services by Your Managed Care Plan." The JFS 04043 (rev. 7/2009) and JFS 04066 (7/2009) also include the additional methods by which a consumer can request a state hearing.

The [JFS 04046](#) (rev. 7/2009), "Notice of Denial of Payment for Medical Services by Your Managed Care Plan," has also been revised to include the additional methods by which a consumer can request a state hearing.

### Instructions:

Location	Remove and File as Obsolete	Insert
SHM 1000 State Hearings Policy	5101:6-2-35 effective 9/1/08	<a href="#">5101:6-2-35</a> effective 7/1/09

	5101:6-4-01 effective 9/1/08	<a href="#"><u>5101:6-4-01</u></a> effective 7/1/09
SHM Appendix	JFS 01704 (7/2008)	<a href="#"><u>JFS 01704</u></a> (rev. 7/2009)
	JFS 01705 (7/2008)	<a href="#"><u>JFS 01705</u></a> (rev. 7/2009)
	JFS 01706 (7/2008)	<a href="#"><u>JFS 01706</u></a> (rev. 7/2009)
	JFS 04043 (rev. 7/2008)	<a href="#"><u>JFS 04043</u></a> (rev. 7/2009)
	JFS 04046 (rev. 7/2008)	<a href="#"><u>JFS 04046</u></a> (rev. 7/2009)
	n/a	<a href="#"><u>JFS 04066</u></a> (7/2009)



# SHMTL 17

## State Hearings Manual Transmittal Letter (SHMTL) No. 17

May 27, 2009

TO: State Hearings Manual (SHM) Holders

FROM: Douglas E. Lumpkin, Director

SUBJECT: Amended rule 5101:6-5-01 "Procedures prior to the state hearing"

This letter transmits amended rule [5101:6-5-01](#), "Procedures prior to the state hearing," effective July 1, 2009.

Rule 5101:6-5-01 was amended to implement provisions of the settlement for *Almendares v. Lucas County Department of Job and Family Services, et al.*, Case No. 3:00CV7524, United States District Court, Northern District of Ohio; to improve processes required to conduct state hearings; and because of the five-year rule review required under section 119.032 of the Revised Code.

The rule sets forth procedures that are to be carried out before the scheduled state hearing. Changes to the rule include adding provisions for the translation of written hearing decisions and having interpreters at hearings, changing the time limit for completion of the appeal summary, and updating address and phone number information.

### Instructions:

<b>Location</b>	<b>Remove and File as Obsolete</b>	<b>Insert</b>
SHM 1000 State Hearings Policy	5101:6-5-01 effective 6/1/03	<a href="#">5101:6-5-01</a> effective 7/1/09

# SHMTL 16

## State Hearings Manual Transmittal Letter (SHMTL) No. 16

April 23, 2009

TO: State Hearings Manual (SHM) Holders

FROM: Douglas E. Lumpkin, Director

SUBJECT: New rule 5101:6-2-37 "Notices of enrollment, continued enrollment, or provider change denial for the managed care plan controlled substances and member management program"

This letter transmits new rule [5101:6-2-37](#) "Notices of enrollment, continued enrollment, or provider change denial for the managed care plan controlled substances and member management program," effective May 1, 2009.

Rule 5101:6-2-37 was adopted to describe notices to and hearing rights for individuals enrolled by a Medicaid managed care plan (MCP) in the controlled substances and member management (CSMM) program defined in rule [5101:3-26-01](#) and authorized by section 5111.172 of the Revised Code. The rule requires an MCP to provide written notification and hearing rights when it enrolls an individual in the CSMM program, determines that enrollment for an individual already in the CSMM program should continue, or denies an individual's request for a change in that individual's designated provider.

### Instructions:

Location	Remove and File as Obsolete	Insert
SHM 1000 State Hearings Policy	n/a	<a href="#">5101:6-2-37</a> effective 5/1/09

# SHMTL 15

## State Hearings Manual Transmittal Letter (SHMTL) No. 15

December 16, 2008

TO: State Hearings Manual Holders  
FROM: Helen E. Jones-Kelley, Director  
SUBJECT: Amended Rule 5101:6-2-02 "Notice of approval of an application for benefits"  
Amended Rule [5101:6-2-03](#) "Notice of denial of an application for benefits"

This letter transmits amended rule 5101:6-2-02 "Notice of approval of an application for benefits" and amended rule 5101:6-2-03 "Notice of denial of an application for benefits" effective December 15, 2008.

Rule 5101:6-2-02, "Notice of approval of an application for benefits," and rule 5101:6-2-03, "Notice of denial of an application for benefits," were amended pursuant to the State Agency Operations Review, which is conducted annually by the Food and Nutrition Service of the U.S. Department of Agriculture (FNS). ODJFS agreed to amend two manual hearing notices and the rules that reference them. The revised notices were issued in [SHMTL No. 10](#).

### Instructions:

Location	Remove and File as Obsolete	Insert/Replace
SHM 1000 State Hearings Manual	5101:6-2-02, effective 06/01/2003	<a href="#">5101:6-2-02</a> , Effective 12/15/2008
	5101:6-2-03, Effective 06/01/2003	<a href="#">5101:6-2-03</a> , Effective 12/15/2008

## SHMTL 14

### State Hearings Manual Transmittal Letter (SHMTL) No. 14

October 30, 2008

TO: State Hearings Manual (SHM) Holders

FROM: Helen E. Jones-Kelley, Director

SUBJECT: Changes to JFS 04059, Explanation of State Hearings Procedures

This letter transmits revisions to the [JFS 04059, Explanation of State Hearing Procedures](#), Explanation of State Hearings Procedures. The JFS 04059 was amended as part of State Hearings Statewide Workgroup recommendations issued September 4, 2008.

JFS 04059, Explanation of State Hearings Procedures was amended to add language as to how to request a telephone hearing when the appellant is unable to attend a state hearing in person.

Instructions:

Please remove and file as obsolete the JFS 04059 (Rev. 4/2005), Explanation of State Hearings Procedures and replace with the attached JFS 04059 in the Appendix of the State Hearings Manual.

# **SHTML 13**

## **State Hearings Manual Transmittal Letter (SHMTL) No. 13**

September 23, 2008

TO: State Hearings Manual (SHM) Holders

FROM: Helen E. Jones-Kelley, Director

SUBJECT: Intentional Program Violation and Administrative Disqualification Hearings

This letter transmits seventeen rules for state hearings conducted by the Bureau of State Hearings, Ohio Department of Job and Family Services (ODJFS), for applicants for, and recipients of, services from ODJFS programs. The rules were amended as part the five-year rule review under section 119.032 of the Revised Code. The amended rules are effective September 1, 2008.

Rule 5101:6-20-01, entitled "Disqualification for intentional program violation," sets forth the reasons a recipient of services from the OWF (Ohio works first), PRC (prevention, retention, and contingency), or food stamp program administered by ODJFS may be disqualified for participation in such a program because of intentional program violation, and sets forth the local agency's responsibility when intentional program violation is suspected. There are no substantive changes to the rule.

Rule 5101:6-20-02, entitled "Definition of intentional program violation," sets forth the definition of "intentional program violation" for the OWF, PRC, and food stamp programs. There are no substantive changes to the rule.

Rule 5101:6-20-03, entitled "Penalties for intentional program violation," sets forth the penalties for intentional program violation for the OWF, PRC, and food stamp programs. There are no substantive changes to the rule.

Rule 5101:6-20-04, entitled "Notification at application," sets forth the requirement that written notice of the penalties for intentional program violation be provided at the time of application for services from ODJFS programs, and sets forth requirements for the content of the notice. There are no substantive changes to the rule.

Rule 5101:6-20-10, entitled "Initiating an administrative disqualification hearing," sets forth required procedures for the local agency when initiating an administrative disqualification hearing. There are no substantive changes to the rule.

Rule 5101:6-20-11, entitled "Consolidation of an administrative disqualification hearing with a state hearing," sets forth the conditions under which an administrative disqualification hearing and a hearing under rule 5101:6-1-01 may be combined into a single hearing. There are no substantive changes to the rule.

Rule 5101:6-20-12, entitled "Advance notice of the administrative disqualification hearing," sets forth the requirement that advance written notice of a hearing be provided to the person accused of intentional program violation, and sets forth the requirements for the content of the notice. There are no substantive changes to the rule.

Rule 5101:6-20-13, entitled "Effect of a pending administrative disqualification hearing," sets forth the requirements that, while an administrative disqualification hearing is pending, the individual accused of intentional program violation will retain the right to apply for and receive services from ODJFS programs and the local agency will continue the usual procedures in regard to notices and denying, reducing, or terminating services. There are no substantive changes to the rule.

Rule 5101:6-20-14, entitled "Failure to attend the administrative disqualification hearing," sets forth the consequences of the person accused of intentional program violation failing to attend the administrative disqualification hearing. There are no substantive changes to the rule.

Rule 5101:6-20-15, entitled "Administrative disqualification hearing procedures," sets forth the role, responsibilities, and rights of the individual accused of intentional program violation, and the roles and responsibilities of the local agency and hearing officer in the hearing process. There are no substantive changes to the rule.

Rule 5101:6-20-16, entitled "Administrative disqualification hearing decisions," sets forth requirements for the hearing officer and hearing authority in regard to decisions for administrative disqualification hearings, and requirements concerning the content of the hearing decision and the accused person and authorized representative being provided with a copy of the hearing decision. There are no substantive changes to the rule.

Rule 5101:6-20-17, entitled "Implementation of the administrative disqualification hearing decision," sets forth the requirements for the local agency to follow when there is a determination of intentional program violation. There are no substantive changes to the rule.

Rule 5101:6-20-18, entitled "Notice of disqualification for intentional program violation," sets forth the requirement that written notice for disqualification for services be provided to the person found to have committed intentional program violation, and requirements concerning the content of the notice. There are no substantive changes to the rule.

Rule 5101:6-20-19, entitled "Opportunity for appeal of an administrative disqualification," sets forth the provision that the person disqualified for services due to being found to have committed intentional program violation has no right to appeal the disqualification decision through an administrative process but does have the right to appeal the decision to the court of common pleas. There are no substantive changes to the rule.

Rule 5101:6-20-30, entitled "Waiver of administrative disqualification hearing," sets forth the requirement that the person suspected of intentional program violation be provided with written notice that he or she may waive the right to an administrative disqualification hearing, and requirements for the content of the notice and procedures for the accused person to follow in waiving his or her right to a hearing. There are no substantive changes to the rule.

Rule 5101:6-20-40, entitled "Disqualification consent agreement," sets forth the provision that the local agency has the option of establishing procedures to allow a person suspected of intentional program violation to sign a disqualification consent agreement, and the requirements for the content of the disqualification consent agreement. There are no substantive changes to the rule.

5101:6-20-50, entitled "Disqualification from the food stamp program based on court action," sets forth the requirements for the local agency when a court determines intentional program violation for the food stamp program. There are no substantive changes to the rule.

Instructions:

<b>Location</b>	<b>Remove and File as Obsolete</b>	<b>Insert/Replacement</b>
SHM2000 Administrative Disqualification Hearings	5101:6-20-01, effective 6/1/03	5101:6-20-01, effective 9/1/08
	5101:6-20-02, effective 6/1/03	5101:6-20-02, effective 9/1/08
	5101:6-20-03, effective 6/1/03	5101:6-20-03, effective 9/1/08
	5101:6-20-04, effective 6/1/03	5101:6-20-04, effective 9/1/08
	5101:6-20-10, effective 6/1/03	5101:6-20-10, effective 9/1/08
	5101:6-20-11, effective 6/1/03	5101:6-20-11, effective 9/1/08
	5101:6-20-12, effective 6/1/03	5101:6-20-12, effective 9/1/08
	5101:6-20-13, effective 6/1/03	5101:6-20-13, effective 9/1/08
	5101:6-20-14, effective 6/1/03	5101:6-20-14, effective 9/1/08
	5101:6-20-15, effective 6/1/03	5101:6-20-15, effective 9/1/08

	5101:6-20-16, effective 6/1/03	5101:6-20-16, effective 9/1/08
	5101:6-20-17, effective 6/1/03	5101:6-20-17, effective 9/1/08
	5101:6-20-18, effective 6/1/03	5101:6-20-18, effective 9/1/08
	5101:6-20-19, effective 6/1/03	5101:6-20-19, effective 9/1/08
	5101:6-20-30, effective 6/1/03	5101:6-20-30, effective 9/1/08
	5101:6-20-40, effective 6/1/03	5101:6-20-40, effective 9/1/08
	5101:6-20-50, effective 6/1/03	5101:6-20-50, effective 9/1/08

# **SHTML 12**

## **State Hearings Manual Transmittal Letter (SHMTL) No. 12**

September 23, 2008

TO: State Hearings Manual (SHM) Holders  
FROM: Helen E. Jones-Kelley, Director  
SUBJECT: Notices for Eligibility Determinations and Appeal Rights

This letter transmits seventeen rules for state hearings conducted by the Bureau of State Hearings, Ohio Department of Job and Family Services (ODJFS), for applicants for, and recipients of, services from ODJFS programs. The rules were amended as part the five-year rule review under section 119.032 of the Revised Code. The amended rules are effective September 1, 2008.

In addition to the seventeen amended rules, rule 5101:6-2-09 "Supplemental sanction notice" was reviewed and is rescinded effective September 1, 2008, because there is no longer a supplemental sanction notice.

Rule 5101:6-2-01, entitled "Notice at the time of application," sets forth the requirement that written notice be provided to applicants for services from ODJFS programs at the time of application, and sets forth requirements for the content of the notice. There are no substantive changes to the rule.

Rule 5101:6-2-04, entitled "Prior notice of adverse action," sets forth the requirement that prior written notice be provided to recipients of services from ODJFS programs at least fifteen calendar days before the effective date of the adverse actions identified in the rule, and sets forth requirements for the content of the notice. There are no substantive changes to the rule.

Rule 5101:6-2-05, entitled "Exceptions to prior notice," sets forth the adverse actions for which prior written notice must be provided to recipients of services from ODJFS programs on or before the effective date of the adverse action, and the adverse actions for which individual prior written notices are not required, and sets forth requirements for the content of the notice. The change to the rule adds the provision that the local agency is not required to continue benefits pending the state hearing for certain adverse actions identified in the rule.

Rule 5101:6-2-06, entitled "Notice of change in law or policy, automatic benefit adjustment, or food stamp mass change," sets forth the changes in benefits to recipients of services from ODJFS programs for which prior written notice of the changes is required, and sets forth the requirements for the content of the notice. The change to the rule is the requirement for prior notice for all of the actions identified in the rule.

Rule 5101:6-2-07, entitled "Notice of the right to a state hearing - child support services," sets forth the requirement that written notice be provided to a recipient of child support services for the actions identified in the rule, and sets forth which written notice should be provided for which action. There are no substantive changes to the rule.

Rule 5101:6-2-08, entitled "Notice whenever disagreement with an action or inaction is expressed," sets forth the situations for which the local agency is required to remind the recipient of services from ODJFS programs of the right to request a state hearing and the situations for which the local agency is required to give the recipient a reapplication. There are no substantive changes to the rule.

Rule 5101:6-2-20, entitled "Notice of overpayment/overissuance," sets forth the requirement that written notice be provided to the recipient of services from ODJFS programs when there is a determination of overpayment of benefits, determination of overissuance of benefits, or determination that the amount of a previous determination of overpayment or overissuance is changed, and sets forth requirements for the content of the notice. There are no substantive changes to the rule.

Rule 5101:6-2-25, entitled "Notice of eligibility for lost food stamp benefits," sets forth the requirement that written notice be provided to a recipient of food stamp benefits when the local agency determines that the recipient is or may be eligible for restoration of lost food stamp benefits or the local agency denies the recipient's request for restoration of lost food stamp benefits, and sets forth requirements for the content of the notice. There are no substantive changes to the rule.



Rule 5101:6-2-26, entitled "Notice of approval, denial or delay of replacement food stamp benefits," sets forth the requirement that written notice be provided to a recipient of food stamp benefits when the local agency approves, denies, or delays a recipient's request for replacement food stamp benefits, and sets forth requirements for the content of the notice. There are no substantive changes to the rule.

Rule 5101:6-2-30, entitled "Notice of medical determination," sets forth the requirement that written notice be provided when there is a medical determination regarding preadmission review for long-term care, prior authorization for hospital days, and precertification for hospital admission, and sets forth requirements for the content of the notice. The change to the rule is including the authorized representative as a person to receive the notice.

Rule 5101:6-2-31, entitled "Notice of denial of prior authorization for medical or dental services," sets forth the requirement that written notice be provided when prior authorization for a medical or dental service is denied, and sets forth the requirements for the content of the notice. The change to the rule is including the authorized representative as a person to receive the notice.

Rule 5101:6-2-32, entitled "Notice of adverse preadmission screening and resident review (PASRR) determinations," sets forth the requirement that written notice be provided when an individual receives an adverse determination for a preadmission screening or an adverse determination for a resident review, and sets forth the requirements for the content of the notice. The change to the rule is including the individual, or his or her legal guardian or authorized representative as persons to receive the notice.

Rule 5101:6-2-35, entitled "Notice of a managed care plan's denial, reduction or termination of a medicaid-covered service," sets forth the requirement that written notice be provided when a managed care plan denies, reduces, or terminates a covered service, and sets forth the requirements for the content of the notice. The change to the rule is including the authorized representative as a person to receive the notice.

Rule 5101:6-2-36, entitled "Notice of denial of just cause request for termination of managed care plan membership," sets forth the requirement that written notice be provided when the managed care plan denies an individual's request for just cause for termination of membership in a managed care plan, and sets forth the requirements for the content of the notice. There are no substantive changes to the rule.

Rule 5101:6-2-40, entitled "PACT notices," sets forth the requirement that written notice be provided in regard to enrollment in PACT (primary alternative care and treatment), continued enrollment, and denial of a designated provider change, and sets forth requirements for the content of the notice. The change to the rule is including the authorized representative and PACT representative as persons to receive the notice.

Rule 5101:6-2-50, entitled "Notice of determinations concerning spouses separated by institutionalization," sets forth the requirement that written notices be provided at the time of the determination of eligibility for medicaid for the institutionalized spouse, sets forth which notices are to be provided, and sets forth the requirements for the content of the notices. The change to the rule is including the authorized representative as a person to receive the notices.

Rule 5101:6-2-51, entitled "Notice of interim assistance reimbursement," sets forth the requirement that written notice be provided when the local agency receives an individual's retroactive SSI (supplemental security income) payment for initial or post-eligibility benefits, and sets forth requirements for the content of the notice. The change to the rule is including the authorized representative as a person to receive the notice.

Instructions:

<b>Location</b>	<b>Remove and File as Obsolete</b>	<b>Insert/Replacement</b>
SHM1000 State Hearings Policy	5101:6-2-01, effective 6/1/03	5101:6-2-01, effective 9/1/08
	5101:6-2-04, effective 6/1/03	5101:6-2-04, effective 9/1/08
	5101:6-2-05, effective 6/1/03	5101:6-2-05, effective 9/1/08
	5101:6-2-06, effective 6/1/03	5101:6-2-06, effective 9/1/08

	5101:6-2-07, effective 6/1/03	5101:6-2-07, effective 9/1/08
	5101:6-2-08, effective 6/1/03	5101:6-2-08, effective 9/1/08
	5101:6-2-09, effective 6/1/03	no replacement
	5101:6-2-20, effective 6/1/03	5101:6-2-20, effective 9/1/08
	5101:6-2-25, effective 6/1/03	5101:6-2-25, effective 9/1/08
	5101:6-2-26, effective 6/1/03	5101:6-2-26, effective 9/1/08
	5101:6-2-30, effective 6/1/03	5101:6-2-30, effective 9/1/08
	5101:6-2-31, effective 6/1/03	5101:6-2-31, effective 9/1/08
	5101:6-2-32, effective 10/1/02	5101:6-2-32, effective 9/1/08
	5101:6-2-35, effective 10/1/02	5101:6-2-35, effective 9/1/08
	5101:6-2-36, effective 5/31/04	5101:6-2-36, effective 9/1/08
	5101:6-2-40, effective 6/1/03	5101:6-2-40, effective 9/1/08
	5101:6-2-50, effective 6/1/03	5101:6-2-50, effective 9/1/08
	5101:6-2-51, effective 6/1/03	5101:6-2-51, effective 9/1/08

# SHTML 11

## State Hearings Manual Transmittal Letter (SHMTL) No. 11

September 23, 2008

TO: State Hearings Manual (SHM) Holders  
FROM: Helen E. Jones-Kelley, Director  
SUBJECT: Appeal Rights, Hearing Procedures, and Hearing Decisions

This letter transmits fifteen rules for state hearings conducted by the Bureau of State Hearings, Ohio Department of Job and Family Services (ODJFS), for applicants for, and recipients of, services from ODJFS programs. The rules were amended as part the five-year rule review under section 119.032 of the Revised Code. The amended rules are effective September 1, 2008.

Rule 5101:6-1-01, entitled "State hearings: general," sets forth definitions and general provisions for state hearings. There are no substantive changes to the rule. The change to the rule removes unnecessary, duplicate information.

Rule 5101:6-3-01, entitled "Grounds for requesting a state hearing," sets forth the reasons an applicant for, or recipient of, services from ODJS programs may request a state hearing. The changes to the rule remove limitations concerning adoptions across state and county jurisdictions and remove the prohibition of hearings for the determination of medically necessary inpatient hospital days by a medical review organization or hospital in-house utilization review committee.

Rule 5101:6-3-02, entitled "State hearing requests," sets forth requirements concerning the method for requesting state hearings and the time limit for request. The change to the rule adds the minor individual's parent or guardian as a person who may request a hearing and modifies the time limit contesting a resource assessment.

Rule 5101:6-4-01, entitled "Continuation of benefits when a state hearing is requested," sets forth the provisions when benefits cannot be reduced, suspended, or terminated when a request for a state hearing is made. The change in the rule shortens the amount of time to reinstate benefits.

Rule 5101:6-5-02, entitled "Postponement of the state hearing," sets forth the conditions under which an applicant for, or recipient of, services from ODJFS programs may request postponement of a state hearing. There are no substantive changes to the rule. The change to the rule clarifies the definition of "postponement."

Rule 5101:6-5-03, entitled "Denial and dismissal of state hearing request," sets forth the reasons a request for a state hearing may be denied or dismissed, the time frame during which a request may be denied or dismissed, and the requirements for proper notice of the denial or dismissal. A change to the rule removes the requirement that a request from an applicant for, or recipient of, services from ODJFS program, be submitted in writing. Under the amendment, the applicant or recipient may request the dismissal orally or in writing. There are no other substantive changes to the rule.

Rule 5101:6-6-01, entitled "Scheduling and attendance," sets forth requirements for the scheduling of state hearings, the location of state hearings, notification to the applicant for, or recipient of, services from ODJFS programs, and attendance at state hearings. The changes to the rule modify as to when an expedited hearing may occur, and expand the list for medical determination issues to include county board of mental retardation and developmental disabilities actions.

Rule 5101:6-6-02, entitled "Rights and responsibilities of the participants," sets forth the rights and responsibilities for the participants of a state hearing, including the representative for the local agency, the person making the request, and the hearing officer. There are no substantive changes to the rule.

Rule 5101:6-6-03, entitled "Tape recording the hearing," sets forth the requirements that a state hearing must be audiotaped and the time frame for retaining the recording, the procedure for the person who has requested the hearing to obtain a copy of the recording, and the procedures to follow, if at the time of an administrative appeal, it is determined that the recording is unavailable or unusable. There are no substantive changes to the rule. The title of the rule changed to "Recording the hearing."

Rule 5101:6-6-04, entitled "Telephone hearings and hearings involving participation by telephone," sets forth requirements for state hearings conducted by telephone, including notification to the person who has requested the hearing that the hearing will be conducted by telephone, and identifies documents and participants required for the hearing. There are no substantive changes to the rule. The title of the rule is changed to "Telephone hearings."

Rule 5101:6-7-01, entitled "State hearing decisions," sets forth the responsibilities of the hearing authority, the time frame in which hearing decisions are required to be issued, the content of the hearing decision, notification to the person requesting the hearing, retention of the hearing record, and the binding effect of a hearing decision. There are no substantive changes to the rule.

Rule 5101:6-7-03, entitled "Implementation of the hearing decision," sets forth the requirements that the local agency promptly and fully implement the hearing decision and the Bureau of State Hearings monitor timely compliance with the decision, and provides the time frames for required compliance with decisions. There are no substantive changes to the rule.

Rule 5101:6-8-01, entitled "Administrative appeal of the state hearing decision," sets forth the appeal rights for the person who requested the hearing who disagrees with the state hearing decision, the reasons for which a person may request an administrative review of the hearing decision, the procedures for making a request for an administrative review, the reasons a request for an administrative review may be denied, and the content of the administrative appeal decision. There are no substantive changes to the rule.

Rule 5101:6-8-02, entitled "County reviews," sets forth the rights of the local agency to request a review of the state hearing decision if the local agency disagrees with the decision, the reason for which the local agency may request a review, and the time frame during which the local agency must request a review. The changes to the rule modify the reasons for which a review may be requested and extend the time frame in which the local agency has to request a review.

Rule 5101:6-9-01, entitled "Further appeal rights," sets forth the conditions under which a person who disagrees with an administrative appeal decision may appeal the decision to the court of common pleas and the requirements for prompt and full implementation by the local agency in response to the judicial decision. There are no substantive changes to the rule.

Instructions:

<b>Location</b>	<b>Remove and File as Obsolete</b>	<b>Insert/Replacement</b>
SHM1000 State Hearings Policy	5101:6-1-01, effective 6/1/03	5101:6-1-01, effective 9/1/08
	5101:6-3-01, effective 5/31/04	5101:6-3-01, effective 9/1/08
	5101:6-3-02, effective 6/1/03	5101:6-3-02, effective 9/1/08
	5101:6-4-01, effective 6/1/03	5101:6-4-01, effective 9/1/08
	5101:6-5-02, effective 6/1/03	5101:6-5-02, effective 9/1/08
	5101:6-5-03, effective 6/1/03	5101:6-5-03, effective 9/1/08
	5101:6-6-01, effective 6/1/03	5101:6-6-01, effective 9/1/08
	5101:6-6-02, effective 12/18/06	5101:6-6-02, effective 9/1/08
	5101:6-6-03, effective 6/1/03	5101:6-6-03, effective 9/1/08
	5101:6-6-04, effective 6/1/03	5101:6-6-04, effective 9/1/08
	5101:6-7-01, effective 12/18/06	5101:6-7-01, effective 9/1/08

	5101:6-7-03, effective 6/1/03	5101:6-7-03, effective 9/1/08
	5101:6-8-01, effective 6/1/03	5101:6-8-01, effective 9/1/08
	5101:6-8-02, effective 6/1/03	5101:6-8-02, effective 9/1/08
	5101:6-9-01, effective 6/1/03	5101:6-9-01, effective 9/1/08

# SHTML 10

## State Hearings Manual Transmittal Letter (SHMTL) No. 10

April 14, 2008

TO: State Hearings Manual Holders  
FROM: Helen E. Jones-Kelley, Director  
SUBJECT: Revisions to JFS 04074 and JFS 07334

This letter transmits amendments to [JFS 04074](#), Notice of Approval of Your Application for Assistance and to [JFS 07334](#), Notice of Denial of Your Application for Assistance.

As a part of the State Agency Operations Review corrective action, two State Hearings forms have been updated. Both the JFS 07334 Notice of Denial of Your Application for Assistance and the JFS 04074 Notice of Approval of Your Application for Assistance, have had major revisions made to reflect that these forms no longer be used for food stamp purposes. Along with grammatical changes, both forms now have a State Hearing Request form attached to simplify the hearing process.

### **Instructions:**

Please remove and file as obsolete the JFS 04074 (Rev.5/2001), Notice of Approval of Your Application For Assistance and replace with the attached JFS 04074 in the Appendix of the State Hearings Manual.

Please remove and file as obsolete the JFS 07334(Rev.4/2003), Notice of Denial of Your Application For Assistance and replace with the attached JFS 07334 in the Appendix of the State Hearings Manual.

## **SHTML 9**

### **State Hearings Manual Transmittal Letter (SHMTL) No. 9**

October 5, 2006

TO: State Hearings Manual Holders

FROM: Barbara E. Riley, Director

SUBJECT: Hearing rules 5101:6-7-01 and 5101:6-6-02- good cause changes

Rules 5101:6-6-02 and 5101:6-7-01 are being emergency filed with an effective date of September 29, 2006. Both rules will be adopted on a permanent basis at a later date. If the content of the rules change, a new State Hearings Manual Transmittal Letter will be issued.

This letter transmits amended rule 5101:6-6-02 "Rights and Responsibilities of the Participants." This rule is being amended to remove requirements pertaining to the responsibility of the CDJFS to submit a copy of their good cause standards at the state hearing. The OWF standards of good cause are now set forth in rule 5101:1-3-12.

Rule 5101:6-7-01 "State Hearing Decisions" has also been amended. This rule is being amended to remove policy pertaining to the requirement of the hearing officer basing a hearing decision on the CDJFS standards of good cause. The OWF standards of good cause are now set forth in rule 5101:1-3-12.

#### **Instructions:**

In chapter 1000, remove and file as obsolete rules 5101:6-6-02 and 5101:6-7-01, both effective June 1, 2003 and replace them with rules 5101:6-6-02 and 5101:6-7-01, both effective September 29, 2006.

## **SHMTL 8**

### **State Hearings Manual Transmittal Letter (SHMTL) No. 8**

February 6, 2006

TO: State Hearings Manual Holders

FROM: Barbara E. Riley, Director

SUBJECT: Permanent Adoption of Rule 5101:6-1-02 "Hearings for the Title IV-A Funded Home Energy Assistance Program (Title IV-A HEAP)"

This letter transmits rule 5101:6-1-02 "Hearings for the Title IV-A Funded Home Energy Assistance Program (Title IV-A HEAP)" adopted on a permanent basis effective January 27, 2006. The rule was initially filed on an emergency basis effective November 10, 2005. The emergency rule was transmitted via SHMTL No. 7. That transmittal letter explains the rule and the rationale for adopting the rule.

#### **Instructions:**

In chapter 1000, remove and file as obsolete rule 5101:6-1-02, effective November 10, 2005, and replace it with rule 5101:6-1-02, effective January 27, 2006.



## SHMTL 7

### State Hearings Manual Transmittal Letter (SHMTL) No. 7

January 23, 2006

TO: State Hearings Manual Holders  
FROM: Barbara E. Riley, Director  
SUBJECT: New Rule 5101:6-1-02 "Hearings for the Title IV-A Funded Home Energy Assistance Program (HEAP)"

This letter transmits new rule 5101:6-1-02 "Hearings for the Title IV-A funded home energy assistance program (HEAP)," which was filed on an emergency basis and is effective November 10, 2005.

On October 6, 2005, Governor Bob Taft issued Executive Order 2005-23T, Title IV-A Funded Home Energy Assistance Program, to authorize the Ohio Department of Job and Family Services (ODJFS) to enter into an Interagency Agreement with the Ohio Department of Development (ODOD) for ODOD to administer and provide Home Energy Assistance Program (HEAP) benefits to needy families with children. In accordance with division (D) of section 5101.801 of the Revised Code, the Interagency Agreement between ODJFS and ODOD must provide specific administrative provisions that will meet Title IV-A requirements of federal and state law including for appeals for applicants and recipients of the benefits provided pursuant to the Interagency Agreement. Division (G) of section 5101.35 of the Revised Code authorizes ODJFS to adopt rules that would allow a Title IV-A program administered pursuant to an Interagency Agreement to provide a different appeals process than is provided under Title IV-A programs administered by ODJFS.

New rule 5101:6-1-02 provides that the appeal procedures of the Title IV-A funded portion of HEAP be as close as possible to the existing ODOD appeal procedure used for other HEAP applicants. The new rule allows ODOD to retain the existing review procedure for both the existing HEAP population and those who are funded through Title IV-A. Under the new rule, a person who is dissatisfied with the ODOD review decision may appeal that decision to ODJFS and that appeal would be handled through the existing ODJFS state hearings procedures. The new rule minimizes the impact on ODOD while ensuring that applicants and recipients receive their full rights under federal Title IV-A laws. The Interagency Agreement between ODJFS and ODOD requires that hearing requests be processed according to the new rule, and the new rule allows an appeal to ODJFS.

#### **Instructions:**

In chapter 1000, insert new rule 5101:6-1-02, effective November 10, 2005, immediately following rule 5101:6-1-01.

# SHMTL 6

## State Hearings Manual Transmittal Letter No. 6

May 5, 2004

TO: State Hearings Manual Holders  
FROM: Thomas J. Hayes, Director  
SUBJECT: CHANGES TO HEARINGS/NOTICE RULES

In order to comply with federal requirements that afford individuals the right to a state hearing when their request to terminate managed care plan membership for just cause has been denied, we are proposing to adopt a new rule, OAC rule 5101:6-2-36, and create a new notice, the [JFS 01711](#), to be used for this type of denial. In addition to the creation of this new rule and form, a corresponding change has been made to the rule that identifies all of the grounds for requesting a state hearing.

Also included in the grounds for requesting a state hearing, is the right for a consumer to appeal a county board of mental retardation and developmental disabilities' decision regarding choice of provider. Section 5126.046(C) of the Revised Code includes a provision for appeal if a consumer determines that a county board that has Medicaid local administrative authority under division (A) of section 5126.055 of the Revised Code for home and community-based services violated the right established by this section of an individual to choose a provider that is qualified and willing to provide services to the individual.

The attached rules have been final filed, and will be effective May 31, 2004.

### **INSTRUCTIONS:**

#### **In Chapter 1000, State Hearings, please do the following:**

Please remove and file as obsolete, OAC rule 5101:6-3-01, Grounds for requesting a state hearing, dated June 1, 2003, and replace with the corresponding rule to be effective May 31, 2004. (OAC 5101:6-3-01)

Please insert OAC rule 5101:6-2-36 effective to be effective May 31, 2004 immediately following OAC rule 5101:6-2-35.

Please remove the Table of Contents for the Appendix of the State Hearing Manual and replace with the corresponding Table of Contents

Please insert the JFS, 01711 in the Appendix of the State Hearing manual immediately following the State Hearing Scheduling Notice

# SHMTL 5

## State Hearings Manual Transmittal Letter No. 5

May 2, 2003

TO: State Hearings Manual Holders  
FROM: Thomas J. Hayes, Director  
SUBJECT: CHANGES TO HEARINGS/NOTICE RULES

As part of the ongoing rule-review process, many of the State Hearings rules have been updated.

The changes made to these rules are very minor and consist mainly of removing references to "ODHS" and "CDHS" and replace them with "ODJFS" and "CDJFS" and updating the form numbers to reflect the revised form numbers.

Other changes include policy changes that reflect procedures currently followed in the state hearing process. In addition to the revision of some rules, a new rule has been created for the County Review Process. This rule, OAC 5101:6-8-02, includes the procedures implemented by a Director's memo dated March 19, 1998.

Also included with this package are the current hearing-related forms, some that have been available electronically, but had not previously been distributed with the manual, and others that have been revised to match current policy.

### **INSTRUCTIONS:**

#### **In Chapter 1000, State Hearings, please do the following:**

Please remove and file as obsolete, OAC rule 5101:6-1-01, State Hearings, General dated May 1, 2000 and replace with the corresponding rule effective June 1, 2003. (5101:6-1-01)

Please remove and file as obsolete, OAC rule 5101:6-2-01, Notice at the time of application dated June 1, 1993, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-01)

Please remove and file as obsolete, OAC rule 5101:6-2-02, Notice of approval of an application for benefits dated June 1, 1993, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-02)

Please remove and file as obsolete, OAC rule 5101:6-2-03, Notice of a denial of an application for benefits dated June 1, 1993, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-03)

Please remove and file as obsolete, OAC rule 5101:6-2-04, Prior notice of adverse action dated June 1, 1993, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-04)

Please remove and file as obsolete, OAC rule 5101:6-2-05, Exceptions to prior notice, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-05)

Please remove and file as obsolete, OAC rule 5101:6-2-06, Notice of change in law or policy, automatic benefit adjustment, or food stamp mass change, dated June 1, 1993, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-06)

Please remove and file as obsolete, OAC rule 5101:6-2-07, Notice of right to a state hearing - child support services, dated June 1, 1993, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-07)

Please remove and file as obsolete, OAC rule 5101:6-2-08, Notice whenever disagreement with an action or inaction is expressed, dated June 1, 1993, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-08)

Please remove and file as obsolete, OAC rule 5101:6-2-09, Supplemental sanction notice, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-09)

Please remove and file as obsolete, OAC rule 5101:6-2-20, Notice of overpayment/overissuance, dated December 30, 1997, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-20)

Please remove and file as obsolete, OAC rule 5101:6-2-25, Notice of eligibility for lost food stamp benefits, dated June 1, 1993, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-25)

Please remove and file as obsolete, OAC rule 5101:6-2-26, Notice of approval, denial or delay of replacement food stamp benefits, dated February 1, 1995, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-26)

Please remove and file as obsolete, OAC rule 5101:6-2-30, Notice of medical determination, dated November 1, 1994, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-30)

Please remove and file as obsolete, OAC rule 5101:6-2-31, Notice of denial of prior authorization for medical or dental services, dated November 1, 1994, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-31)

Please remove and file as obsolete, OAC rule 5101:6-2-40, PACT notices, dated June 1, 1993, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-40)

Please remove and file as obsolete, OAC rule 5101:6-2-50, Notice of determinations concerning spouses separated by institutionalization, dated January 1, 1996, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-50)

Please remove and file as obsolete, OAC rule 5101:6-2-51, Notice of interim assistance reimbursement, dated June 1, 1993, and replace with the corresponding rule effective June 1, 2003. (5101:6-2-51)

Please remove and file as obsolete, OAC rule 5101:6-3-01, Grounds for requesting a state hearing, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-3-01)

Please remove and file as obsolete, OAC rule 5101:6-3-02, State hearing requests, dated June 1, 1997, and replace with the corresponding rule effective June 1, 2003. (5101:6-3-02)

Please remove and file as obsolete, OAC rule 5101:6-4-01, Continuation of benefits when a state hearing is requested, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-4-01)

Please remove and file as obsolete, OAC rule 5101:6-5-01, Procedures prior to the state hearing, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-5-01)

Please remove and file as obsolete, OAC rule 5101:6-5-02, Postponement of the state hearing, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-5-02)

Please remove and file as obsolete, OAC rule 5101:6-5-03, Denial and dismissal of state hearing requests, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-5-03)

Please remove and file as obsolete, OAC rule 5101:6-6-01, Scheduling and attendance, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-6-01)

Please remove and file as obsolete, OAC rule 5101:6-6-02, Rights and responsibilities of the participants, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-6-02)

Please remove and file as obsolete, OAC rule 5101:6-6-03, Tape recording of the hearing, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-6-03)

Please remove and file as obsolete, OAC rule 5101:6-6-04, Telephone hearings and hearings involving participation by telephone, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-6-01)

Please remove and file as obsolete, OAC rule 5101:6-7-01, State hearing decisions, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-7-01)

Please remove and file as obsolete, OAC rule 5101:6-7-02, Hearings involving couples separated by institutionalization, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-7-02)

Please remove and file as obsolete, OAC rule 5101:6-7-03, Implementation of the hearing decision, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-7-03)

Please remove and file as obsolete, OAC rule 5101:6-8-01, Administrative appeal of the state hearing decision, dated May 1, 2000, and replace with the corresponding rule effective June 1, 2003. (5101:6-8-01)

Please insert OAC rule 5101:6-8-02, County review of the state hearing decision, dated June 1, 2003, immediately following OAC rule 5101:6-8-01, Administrative Appeal of the state hearing decision.

Please remove and file as obsolete, OAC rule 5101:6-9-01, Further appeal rights, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-9-01)

**In Chapter 2000 State Hearings, please do the following:**

Please remove and file as obsolete, OAC rule 5101:6-20-01, Disqualification for intention program violation, dated May 1, 2000, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-01)

Please remove and file as obsolete, OAC rule 5101:6-20-02, Definition of intentional program violation, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-02)

Please remove and file as obsolete, OAC rule 5101:6-20-03, Penalties for intentional program violation, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-03)

Please remove and file as obsolete, OAC rule 5101:6-20-04, Notification at application, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-04)

Please remove and file as obsolete, OAC rule 5101:6-20-10, Initiating an administrative disqualification hearing, dated February 1, 1995, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-10)

Please remove and file as obsolete, OAC rule 5101:6-20-11, Consolidation of an administrative disqualification hearing with a state hearing, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-11)

Please remove and file as obsolete, OAC rule 5101:6-20-12, Advance notice of an administrative disqualification hearing, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-12)

Please remove and file as obsolete, OAC rule 5101:6-20-13, Effect of a pending administrative disqualification hearing, dated September 1, 1994, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-13)

Please remove and file as obsolete, OAC rule 5101:6-20-14, Failure to attend the administrative disqualification hearing, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-14)

Please remove and file as obsolete, OAC rule 5101:6-20-15, Administrative disqualification hearing procedures, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-15)

Please remove and file as obsolete, OAC rule 5101:6-20-16, Administrative disqualification hearing decisions, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-16)

Please remove and file as obsolete, OAC rule 5101:6-20-17, Implementation of the administrative disqualification hearing decision, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-17)

Please remove and file as obsolete, OAC rule 5101:6-20-18, Notice of disqualification for intentional program violation, dated May 1, 2000, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-18)

Please remove and file as obsolete, OAC rule 5101:6-20-19, Opportunity for appeal of an administrative disqualification, dated September 1, 1994, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-19)

Please remove and file as obsolete, OAC rule 5101:6-20-30, Waiver of administrative disqualification hearing, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-30)

Please remove and file as obsolete, OAC rule 5101:6-20-40, Disqualification consent agreement, dated May 15, 1999, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-40)

Please remove and file as obsolete, OAC rule 5101:6-20-50, Disqualification based on court action, dated May 1, 2000, and replace with the corresponding rule effective June 1, 2003. (5101:6-20-50)

**In the appendix of the state hearing manual please do the following:**

Please remove and file as obsolete the ODHS 4000 and replace with the corresponding Notices of Dismissal.

Please remove and file as obsolete the ODHS 4002, State Hearing Scheduling Notice and replace with the corresponding State Hearing Scheduling Notice

Please remove and file as obsolete the ODHS 4005, State Hearing Decision, and replace with the corresponding JFS 04005.

Please remove and file as obsolete the ODHS 4028, Notice of Enrollment in the Primary Alternative Care and Treatment (PACT) Program, and replace with the corresponding JFS 04028.

Please remove and file as obsolete the ODHS 4029, Notice of Denial of Designate Provider Change for Primary Alternative Care and Treatment (PACT) Program, and replace with the corresponding JFS 04029.

Please remove and file as obsolete the ODHS 4069, State Hearing Request, and replace with the corresponding JFS 04069.

Please remove and file as obsolete the ODHS 4074, Notice of Approval of Your Application for Assistance, and replace with the corresponding JFS 04074.

Please remove and file as obsolete the ODHS 4077, Resource Transfer Worksheet, and replace with the corresponding JFS 04077.

Please remove and file as obsolete the ODHS 4230, Notice of Continued Enrollment in the Primary Alternative Care and Treatment (PACT) Program, and replace with the corresponding JFS 04230.

# SHMTL 4

## State Hearings Manual Transmittal Letter No. 4

August 27, 2002

TO: State Hearings Manual Holders  
FROM: Thomas J. Hayes, Director  
SUBJECT: CHANGES TO TWO HEARINGS NOTICE RULES

As part of the ongoing rule-review process, two State Hearings/Notice rules have been updated. The changes made to these two rules are very minor and consist only of removing references to "ODHS," and changing agency references to reflect the current name, "ODJFS" and correcting the reference to county agencies as "CDJFS" rather than "CDHS."

A change has been made to more clearly identify the office to which Managed Health Care-related notices should be sent. There has also been a minor change made to align the rule with the current notice requirements contained in the Managed Health Care program.

Also included in this package are printed copies of the interactive notices ODJFS provides for use to Managed Care Plans. The form numbers have been changed to reflect current policy and the agency name. We have also revised the Explanation of State Hearings, JFS 04059 (formerly the ODHS 4059), so that the current toll-free number is listed.

### INSTRUCTIONS:

In **Chapter 1000**, State Hearings, please do the following:

Remove and file as obsolete OAC rule 5101:6-2-35, "Notice of a Managed Care plan's denial, reduction or termination of a medicaid-covered service" effective December 19, 1997, and replace with the corresponding rule, effective October 1, 2002.

Remove and file as obsolete OAC rule 5101:6-2-32, "Notice of adverse preadmission screening and resident review (PASRR) determinations" effective June 1, 1997, and replace with the corresponding rule, effective October 1, 2002.

In the Appendix, of the State Hearings Manual, please do the following:

Remove and file as obsolete the ODHS 4043, Notice of Denial, Reduction or Termination of Medical Services by your Managed Care Plan, and replace with the attached JFS 04043.

Remove and file as obsolete the ODHS 4046, Notice of Denial of Payment for Medical Services by Your Managed Care Plan, and replace with the attached JFS 04046.

Remove and file as obsolete the ODHS 4059, Explanation of State Hearing Procedures, and replace with the corresponding JFS 04059.

## SHTML 3

### State Hearings Manual Transmittal Letter No. 3

Public Assistance Manual Transmittal Letter No. 412

March 24, 2000

TO: State Hearings Manual Holders  
All Public Assistance Manual Holders

FROM: Jacqueline Romer-Sensky, Director

SUBJECT: CHANGES TO ADMINISTRATIVE DISQUALIFICATION PROVISIONS

As the result of a recent review of the Administrative Disqualification provisions in the Ohio Administrative Code rules, changes are being made to clarify the policy. Paragraphs (A)(3)(a) of rule 5101:1-23-75 contained in the Public Assistance Manual, and (B)(1) of rule 5101:6-21-01 contained in the State Hearings Manual, have been revised to remove the words "intentional program violation" and to insert language which includes a finding of an intentional program violation when a court determines that an individual has committed a criminal offense connected to a violation of the OWF and/or PRC program requirements. All references to OWF and PRC have been removed from rule 5101:6-20-50 of the Administrative Code.

In addition to the above changes, some changes are being made to simplify record retention for state hearings. The official hearing records will now be maintained by the ODHS Bureau of State Hearings, rather than returned to the county agencies. Upon request a copy will be sent to the local agency. This change is being made to simplify the process of record retrieval and maintain these records as available for additional appeal actions.

As part of our ongoing review of State Hearings Rules, technical changes are being made to some of the State Hearings rules. State and federal adoption assistance programs have been included in the definition of "benefits." Exclusion of these programs was an oversight.

Rule 5101:6-20-18 has been modified to require that copies of the "Notice of Disqualification for Intentional Program Violation," ODHS 4062 be sent to the fraud control specialist at the appropriate district office. A corresponding change has been made to the form.



## SHMTL 2

### State Hearings Manual Transmittal No. 2

May 1, 1999

TO: State Hearings Manual Holders  
FROM: Jacqueline Romer-Sensky, Director  
SUBJECT: MISCELLANEOUS STATE HEARINGS RULE CHANGES

As part of our ongoing review of State Hearings Rules, technical changes are being made to some of the State Hearings rules to not only reflect the current structure of the Bureau of State Hearings, but also to correct policies that had corresponding, or previously been changed in the other policy areas.

Various changes have been made to the hearings rules to reflect the current administration of the hearings program. Distinction in responsibilities have been removed when appropriate since the hearings sections are now a part of the Bureau of State Hearings.

Because of changes made in the penalties associated with OWF fraudulent assistance and IPV hearings, some changes have been made to the Administrative Disqualification Hearings regulations. Some technical changes have also been made to reflect the administration of the hearings process.

We have added some grounds for requesting a state hearing to reflect the recent policy changes made with regard to interjurisdictional adoptions issues.

These changes will be effective May 15, 1999.

The ODHS 7334 has been revised to reflect the current Mailing address for the Bureau of State Hearings, and will be available for ordering as soon as the print order can be filled. We have also requested having a supply of the ODHS 4058, Explanation of Administrative Disqualification Hearing Procedures and the ODHS 4059, Explanation of State Hearing Procedures printed. Not having these available, was an oversight.

# SHMTL 1

## State Hearings Manual Transmittal Letter No. 1

July 24, 1998

TO: All State Hearings Manual Holders  
FROM: Arnold R. Tompkins, Director  
SUBJECT: ISSUANCE OF STATE HEARINGS MANUAL, ODHS 7240

Attached is the ODHS 7420, State Hearings Manual. In an attempt to simplify the issuance of state hearings policy changes, and eliminate unnecessary duplication, we determined that the state hearings chapter should be removed from the various policy manuals and issued as a separate manual.

The enclosed rules have not been amended from their last issuance in the other manuals. The forms contained in the appendix were last revised as indicated on the notice.

All future changes will be issued via state hearings transmittal letters.

Ohio Public Assistance Manual holders were instructed per MTL No. 396 to remove Chapter 9000 and file it as obsolete. Food Stamp Certification Handbook, Child Support Enforcement Manual, Family Children and Adult Services Manual and Child Care Manual holders are instructed to remove the State Hearings Chapter from those manuals and maintain the State Hearings Manual in its place.

# **SHM.1000. State Hearings Policy**

SHMTL 37

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) Chapters 5101:6-1 to 5101:6-9 of the Administrative Code describe the hearing and appeal rights and procedures applicable to family services program benefits, pursuant to section 5101.35 of the Revised Code, child support services, pursuant to section 3125.25 of the Revised Code, and the medicaid program, pursuant to section 5160.31 of the Revised Code.
- (B) All rules relating to the right to a hearing and limitations on that right shall be liberally construed in favor of the right to a hearing.
- (C) When it appears that an individual may not be able to understand or exercise the right to a state hearing due to factors such as limited mental capability or language barriers, the local agency shall assist the individual in naming a responsible party (guardian, relative, legal aid attorney, etc.) to act as authorized representative and receive a copy of notice in addition to the original to the individual. This requirement applies to notice at the time of application and to all subsequent hearing notices. A referral to social services for assistance in naming a responsible party may be appropriate.
- (D) In counting the days contained in a timely appeal specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, the date on which the notice was mailed, sent by electronic means, or otherwise provided is not counted.  
If the last day of the time period falls on a Saturday, Sunday, or state or federal legal holiday, then the time period is extended to include the next workday.
- (E) Local agencies may modify the format, but not the content, of state hearing notices mandated in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code to accommodate electronic generation of the notice. All such modifications shall be approved by the bureau of state hearings.
- (F) Definitions  
As used in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, the following terms shall have the following meanings unless otherwise specified.
- (1) "Agency" shall refer to either the local agency, ODJFS, Ohio department of medicaid or it's designee.
  - (2) "Appellant" means an individual who is an applicant, participant, former participant, recipient, or former recipient of a family services program and is entitled by federal or state law to a hearing regarding a decision or order of the agency that administers the program.
  - (3) "Authorized representative" means an individual, eighteen years or older, who stands in the place of the appellant. The authorized representative may include a legal entity assisting in the application process. ODJFS may request proper identification from the authorized representative.
  - (4) "Benefits" shall refer to benefits under any or all of the following programs:
    - (a) Public assistance.
      - (i) Refugee resettlement program.
      - (ii) Disability assistance.
      - (iii) OWF cash assistance.
      - (iv) Prevention, retention and contingency (PRC) program.
      - (v) Medicaid.

- (vi) Temporary assistance to needy families (TANF) funded programs administered by local agencies or agents of ODJFS or the CDJFS.
- (b) Supplemental nutrition assistance program (SNAP).
- (c) Social services.
- (d) State and federal adoption assistance programs.
- (5) "Day" shall refer to a twenty-four hour calendar day unless otherwise indicated.
- (6) "Electronic" has the same meaning as in section 1306.01 of the Revised Code.
- (7) "Electronic equivalent" means an electronic version of an ODJFS form or application which has not been modified in any way other than format prior to completion and submission of that form to the administrative agency. The administrative agency is not required to accept forms that are materially altered.
- (8) "Electronic signature" or "e-sign" has the same meaning as in section 1306.01 of the Revised Code.
- (9) "Eligibility system" means a computer program determining benefit levels or amounts for individuals or families. Eligibility systems may also generate paper or electronic applications, forms, and notices related to the benefit determination or an action taken on the case of an individual or family.
- (10) "Local agency" shall refer to any or all of the following:
  - (a) The county department of job and family services (CDJFS), pursuant to section 5101.35 of the Revised Code.
  - (b) The county public children services agency (PCSA), pursuant to section 5101.35 of the Revised Code.
  - (c) The county child support enforcement agency (CSEA), pursuant to section 3125.25 of the Revised Code.
  - (d) A private or government entity administering, in whole or in part, a family services program benefit on behalf of ODJFS, a CDJFS, a PCSA, or as otherwise designated under law.
- (11) "Social services" shall refer to any or all of the following:
  - (a) Learning earning and parenting (LEAP), supportive services, and support services provided to participants in a work activity under the Ohio works first (OWF) program or the SNAP employment and training program.
  - (b) Publicly funded child care services provided pursuant to Chapter 5101:2-16 of the Administrative Code.
  - (c) Title XX services provided pursuant to Chapter 5101:2-25 of the Administrative Code.

Replaces: 5101:6-1-01

Effective: 3/1/2019

Five Year Review (FYR) Dates: 03/01/2024

Certification: CERTIFIED ELECTRONICALLY

Date: 02/05/2019

Promulgated Under: 119.03

Statutory Authority: 5101.35, 3125.25

Rule Amplifies: 3125.25, 5101.35, 5160.011, 5160.31

Prior Effective Dates: 09/01/1976, 10/01/1978, 12/01/1979, 04/01/1980, 10/01/1981, 05/01/1982, 10/01/1982, 04/01/1983, 07/01/1983, 11/01/1983 (Temp.), 12/01/1983, 03/01/1984 (Temp.), 06/01/1984, 10/03/1984

(Emer.), 12/22/1984, 07/01/1985 (Emer.), 09/29/1985, 04/01/1986, 04/01/1987, 12/01/1987, 05/01/1988, 11/01/1988, 11/01/1989 (Emer.), 01/29/1990, 10/01/1991, 06/01/1993, 10/01/1997 (Emer.), 12/30/1997, 04/01/2000, 06/01/2003, 09/01/2008, 08/01/2010, 02/28/2014

**SHMTL 37**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) At the time of application for benefits, the assistance group shall be informed, in writing, of the right to a state hearing, of the method by which a state hearing may be requested, and that the case may be presented by the assistance group or by an authorized representative, such as legal counsel, relative, friend, or other spokesperson.
- (B) The JFS 04059 "Explanation of State Hearing Procedures" (rev. ~~10/2008~~ 1/2015), or its computer-generated equivalent, shall be used to provide this notice.
- (C) If the assistance group making a ~~food assistance~~ supplemental nutrition assistance program (SNAP) application speaks a language other than English, and if the local agency is required by rule 5101:4-1-05 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. If an oral explanation is provided in a language other than English, it should be noted in the case record comments. If a translated written explanation is provided in another language, in addition to noting that in the case record, a copy of the explanation should be maintained in the hard copy record.

Effective: 3/1/2019

Five Year Review (FYR) Dates: 11/29/2018 and 03/01/2024

Certification: CERTIFIED ELECTRONICALLY

Date: 02/05/2019

Promulgated Under: 119.03

Statutory Authority: 5101.35, 3125.25

Rule Amplifies: 3125.25, 5101.35, 5160.011

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SHMTL 37

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) When the agency approves an application for public assistance or social services, the assistance group shall be provided prompt written notice of the decision.
- (1) The notice shall contain: ~~a clear and understandable statement of the action the agency has taken and the reasons for it, including the beginning date of aid and the amount of all benefits authorized, cite the applicable regulations, explain the assistance group's right to and the method of obtaining a county conference and a state hearing, and contain a telephone number to call about free legal services.~~
- (a) A clear and understandable statement of the action the agency has taken and the reasons for it, including the beginning date of aid and the amount of all benefits authorized.
- (b) Citations of the applicable regulations.
- (c) An explanation of the assistance group's right to and the method of obtaining a county conference and a state hearing.
- (d) A telephone number to call about free legal services.
- (2) The JFS 04074 "Notice of Approval of Your Application for Assistance" (rev. 9/2011), or the Ohio department of job and family services (ODJFS) computer-generated approval notice, shall be used.
- (B) When the agency approves an application or reapplication for ~~food assistance~~ supplemental nutrition assistance program (SNAP) benefits, the assistance group shall be provided written notice of the decision.
- (1) The ODJFS ~~computer-generated~~ electronic approval notices are the only notices that may be used for approval of applications and reapplications for ~~food assistance~~ SNAP benefits. When the agency approves an application or reapplication for ~~food assistance~~ SNAP benefits, the JFS 04074, any version shall not be used.
- (2) Timing of the notice shall be in accordance with rule 5101:4-5-07 of the Administrative Code.
- (3) The notice shall contain: ~~a clear and understandable statement of the action the agency has taken, cite the applicable regulations, explain the assistance group's right to and the method of obtaining a county conference and a state hearing, and contain the name and telephone number of the person to contact for more information and a telephone number to call about free legal services.~~
- (a) A clear and understandable statement of the action the agency has taken.
- (b) Citations of the applicable regulations.
- (c) An explanation of the assistance group's right to and the method of obtaining a county conference and a state hearing.
- (d) The name and telephone number of the person to contact for more information.
- (e) A telephone number to call about free legal services.
- The notice shall also include the amount of the allotment, the beginning and ending dates of the certification period, and any variations in the benefit level based on changes anticipated at the time of certification.



If the initial allotment contains both benefits for the month of application and the current month's benefits, the notice shall explain that the initial allotment includes more than one month's benefits, and shall indicate the monthly allotment for the remainder of the certification period.

- (4) The agency may include with the notice a reminder of the assistance group's obligation to report changes in circumstances and the need to reapply for continued participation at the end of the certification period. Other information that may be useful to the assistance group also may be included.
- (5) When an assistance group's application is approved on an expedited basis without verification, as provided in rule 5101:4-6-09 of the Administrative Code, the notice shall be accompanied by an explanation that the assistance group ~~must~~shall provide the verification that was previously waived.
- (6) If the agency has elected to assign a longer certification period to an assistance group certified on an expedited basis, the notice shall also be accompanied by an explanation of the special conditions of the longer certification period, as specified in rule 5101:4-6-09 of the Administrative Code.
- (7) For assistance groups provided a notice of expiration at the time of certification, as required by rule 5101:4-7-07 of the Administrative Code, the notice of eligibility shall be accompanied by a notice of expiration.
- (8) The JFS 07401 "Notice of Pending ~~Food Assistance~~ Supplemental Nutrition Assistance Program (SNAP) Application" (rev. ~~6/2013~~ 11/2016), or its computer-generated equivalent, shall be used.

Effective: 3/1/2019

Five Year Review (FYR) Dates: 11/29/2018 and 03/01/2024

Certification: CERTIFIED ELECTRONICALLY

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SHMTL 37

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) When the agency denies an application for or a requested change in public assistance or social services, the assistance group shall be provided prompt written notice of the decision.
- (1) The notice shall contain:
    - (a) A clear and understandable statement of the action the agency has taken and the reasons for it.
    - (b) Citations of the applicable regulations.
    - (c) An explanation of the individual's right to and the method of obtaining a county conference and a state hearing.
    - (d) A telephone number to call about free legal services.
  - (2) The JFS 07334 "Notice of Denial of Your Application for Assistance" (rev. 9/2011), or its computer-generated equivalent, shall be used.
- (B) When the agency denies a supplemental nutrition assistance program (SNAP) application, reapplication or requested change in benefits, the assistance group shall be provided written notice of the decision.
- (1) The ODJFS electronic denial notices are the only notices that may be used for denial of applications for SNAP benefits.
  - (2) Timing of the notice shall be in accordance with rule 5101:4-5-07 of the Administrative Code.
  - (3) The notice shall contain:
    - (a) A clear and understandable statement of the action the agency has taken and the reasons for it.
    - (b) Citations of the applicable regulations.
    - (c) An explanation of the assistance group's right to and the method of obtaining a county conference and a state hearing.
    - (d) The name and telephone number of the person to contact for more information.
    - (e) A telephone number to call about free legal services.
  - (4) When the denial is caused by the assistance group's failure to take action to complete the application process, as described in rule 5101:4-5-07 of the Administrative Code, the notice shall also explain:
    - (a) What action the assistance group shall take to reactivate the application.
    - (b) That the case will be reopened without a new application if action is taken within thirty days of the mailing date of the denial notice.
    - (c) That the assistance group shall submit a new application if, at the end of the thirty day period, the assistance group has not taken the needed action and wishes to participate in the program.
  - (5) When the agency is at fault for not completing the application process by the end of the second thirty day period, but the case file is not complete enough to reach an eligibility determination, the agency may deny the case, but the notice of denial shall be accompanied by notification to the assistance group to file a new application and of its possible entitlement to benefits lost as a result of agency delay.

(6) See rule 5101:4-2-02 of the Administrative Code for additional information that shall accompany the notice of denial for assistance groups with actual or potential categorical eligibility.

Replaces: 5101:6-2-03

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**SHMTL 37**

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**Most Current Prior Effective Date: July 25, 2016**

When the agency intends to withhold, reduce, suspend, or terminate public assistance, social services, or ~~food assistance~~ supplemental nutrition assistance program (SNAP) within the certification period, or to change the manner or form of assistance to protective, vendor, or two-party payment, the assistance group shall be provided prior written notice of the action. An electronic notice may replace a written notice, as permitted by federal law.

- (A) The written notice shall be sent electronically, by regular U. S. mail, or hand delivered no less than fifteen ~~calendar~~ days prior to the effective date of the proposed action.
- (B) The notice shall contain: ~~a clear and understandable statement of the proposed action and the reasons for it, cite the applicable regulations, explain the assistance group's right to and the method of obtaining a county conference and a state hearing, explain the circumstances under which a timely hearing request will result in continued benefits, and contain a telephone number to call about free legal services.~~
  - (1) A clear and understandable statement of the proposed action and the reasons for it.
  - (2) Citations of the applicable regulations.
  - (3) An explanation of the assistance group's right to and the method of obtaining a county conference and a state hearing.
  - (4) An explanation of the circumstances under which a timely hearing request shall result in continued benefits.
  - (5) A telephone number to call about free legal services.
- (C) The JFS 04065 "Prior Notice of Right to a State Hearing" (rev. 5/2001), or its computer-generated equivalent, shall be used.
- (D) If a change in the assistance group's circumstances requires reduction or termination of both public assistance and ~~food assistance~~ SNAP benefits, the agency shall issue a single notice for both public assistance and ~~food assistance~~ SNAP actions.

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SHMTL 37

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**Most Current Prior Effective Date: February 28, 2014**

(A) Public assistance and social services

(1) Under the following circumstances, prior notice of adverse action is not required, but the assistance group shall be provided written notice on or before the effective date of the action, ~~and the agencies are~~ The agency is not required to continue fair hearing benefits.

(a) The agency has factual information confirming the death of an individual, or of the payee when there is no relative available to serve as a new payee.

(b) The agency receives a clear, written statement, signed by the individual, that he or she no longer wishes to receive benefits, or that ~~gives information that requires reduction or termination, and indicates that the individual understands that this must be the consequence of supplying the information~~ the appellant understands that based on the information they provided, their benefits will be reduced or terminated.

In no way does this exception permit the preparation of any type of blanket statement to be signed at the time of application or at any other time that would allow the agency to take action at some future date without providing prior notice.

(c) The agency determines, based on reliable information, that the individual has been admitted or committed to an institution where he or she is ineligible for further benefits.

(d) The agency determines, based on reliable information, that the individual has been placed in skilled nursing care, intermediate care, or long-term hospitalization where he or she is ineligible for further benefits.

(e) The assistance group's whereabouts are unknown and agency mail directed to the assistance group has been returned by the post office indicating no known forwarding address.

However, the assistance group's benefit ~~must~~ shall be made available if the assistance group's whereabouts become known during the period covered by the returned benefit.

(f) The agency determines, based on reliable information, that the assistance group has moved to another state.

(g) A child is removed from the home as a result of a judicial determination or is voluntarily placed in foster care by the child's legal guardian.

(h) A special allowance, or supportive service, granted for a specific period is terminated at the end of the specified period. The assistance group ~~must~~ shall be informed, in writing, when the allowance is initiated, of the exact date upon which the allowance will automatically terminate.

(2) The notice shall contain: ~~a clear and understandable statement of the action being taken and the reasons for it, cite the applicable regulations, explain the assistance group's right to and the method of obtaining a county conference and a state hearing, explain the circumstances under which a timely hearing request will result in reinstated benefits, and contain a telephone number to call about free legal services.~~

(a) A clear and understandable statement of the action being taken and the reasons for it.

(b) Citations of the applicable regulations.

(c) An explanation of the assistance group's right to and the method of obtaining a county conference and a state hearing.

(d) An explanation of the circumstances under which a timely hearing request shall result in reinstated benefits.

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

(3) The JFS 04085 "Prior Notice of Right to a State Hearing (Adequate Notice) (rev. 5/2004/2/2014)," or its computer-generated equivalent, shall be used.

(B) ~~Food assistance~~ Supplemental nutrition assistance program (SNAP)

Under the following circumstances, individual notices of adverse action shall not be provided.

- (1) The agency determines, based on reliable information, that all members of the assistance group have died.
- (2) The agency determines, based on reliable information, that the assistance group has moved from the county.
- (3) The assistance group has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the assistance group was previously notified in writing of when the increased allotment would terminate.
- (4) The assistance group jointly applied for public assistance and ~~food assistance~~ SNAP benefits, has been receiving ~~food assistance~~ SNAP benefits pending the approval of the public assistance grant, and was notified in writing at the time of certification that ~~food assistance~~ SNAP benefits would be reduced upon approval of the public assistance grant.
- (5) An assistance group member is disqualified for an intentional program violation in accordance with rule 5101:4-8-15 of the Administrative Code, or the benefits of the remaining assistance group members are reduced or terminated to reflect the disqualification of that assistance group member.
- (6) The agency has elected to assign a longer certification period to an assistance group which was certified on an expedited basis and for whom verification was postponed, under the provisions of rule 5101:4-6-09 of the Administrative Code.

The assistance group ~~must~~ shall have received written notice that the receipt of future benefits is contingent on its providing the verification that was initially postponed and that the agency may act on the verified information without further notice.

- (7) The assistance group is converted from cash and/or ~~food assistance~~ SNAP electronic benefit transfer (EBT) benefit repayment to allotment reduction as a result of failure to make agreed upon repayment of an overissuance.
- (8) The agency is terminating the eligibility of a resident of a drug or alcohol treatment center or a group living arrangement if the facility loses either its certification from the appropriate agency or agencies of the state of Ohio, as defined in rule 5101:4-6-01 of the Administrative Code, or has its status as an authorized representative suspended due to food and nutrition services (FNS) disqualifying it as a retailer.
- (9) The assistance group voluntarily requests, in writing or in the presence of a caseworker, that its participation be terminated. If the assistance group does not provide a written request, the agency shall send the assistance group a letter confirming the voluntary withdrawal. Written confirmation does not entail the same rights as a notice of adverse action except that the assistance group may request a state hearing.
- (10) The agency determines, based on reliable information, that the assistance group will not be residing in the county and, therefore, will be unable to obtain its next allotment. The agency shall inform the assistance group of its termination no later than its next scheduled issuance date. While the agency may inform the assistance group before its next issuance date, the agency shall not delay terminating the assistance group's participation in order to provide advance notice.

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SHMTL 37

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- (A) When a change in state law, federal law, or local agency policy adopted pursuant to options authorized in state law requires automatic adjustment of benefits, the assistance group shall be provided prior written notice of the action. The exception to this rule is some classes of ~~food assistance~~supplemental nutrition assistance program (SNAP) recipients for which federal law does not require notification.
- (1) The notice shall be mailed or personally delivered no less than fifteen ~~calendar~~ days prior to the processing of the action.
  - (2) The notice shall contain: ~~a clear and understandable statement of the proposed action and the reasons for it, cite the applicable regulations, explain the assistance group's right to and the method of obtaining a county conference and a state hearing, explain the circumstances under which a timely hearing request will result in continued benefits, and contain a telephone number to call about free legal services.~~
    - (a) A clear and understandable statement of the proposed action and the reasons for it.
    - (b) Citations of the applicable regulations.
    - (c) An explanation of the assistance group's right to and the method of obtaining a county conference and a state hearing.
    - (d) An explanation of the circumstances under which a timely hearing request shall result in continued benefits.
    - (e) A telephone number to call about free legal services.
  - (3) When a change in state or federal law requires such an adjustment statewide, the JFS 04025 "Important Notice about your Welfare Benefits" (rev. 5/2001), its computer-generated equivalent, or other notice specifically developed and designated by the Ohio department of job and family services (ODJFS), shall be used. Local agencies shall receive instructions concerning notice prior to implementation of the change.
  - (4) When a change in local agency policy requires such an adjustment, the local agency is responsible for developing the content of the notice, in accordance with paragraph (A)(2) of this rule. The language under "Your Right to a State Hearing" contained on the JFS 04025 ~~must~~shall be duplicated exactly on any such local agency notice regarding a policy change that could be misapplied to individual circumstances, in accordance with paragraph (A) of rule 5101:6-3-01 of the Administrative Code.
- (B) When a change in state or federal law or policy requires a mass change in ~~the food assistance program~~SNAP, as described in rule 5101:4-7-03 of the Administrative Code, the assistance group shall be provided notice of the action as prescribed by state hearings in accordance with 7 C.F.R. 273.12 (effective January 1, 2013).

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SHMTL 37

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- (A) Notice at the time of application
- (1) Public assistance recipients shall be informed, in writing, of the right to a state hearing. Notification shall be mailed or personally delivered within five ~~workdays~~business days of the date of receipt of a referral made by the public assistance agency to the child support enforcement agency (CSEA).
  - (2) Individuals who are not public assistance recipients who request child support services shall be informed, in writing, of the right to a state hearing. Notification shall be mailed or personally delivered at the time an application is provided to the individual.
  - (3) The JFS 04059 "Explanation of State Hearing Procedures" (rev. 10/2008 1/2015), shall be used.
- (B) Notice of acceptance or denial
- (1) Within twenty ~~calendar~~ days of receipt of a non-public assistance application for child support services, the CSEA shall notify the applicant of acceptance or denial of the application.
  - (2) The JFS 07647 "Notice of Case Status Application" (effective or revised effective date as identified in rule 5101:12-10-99 of the Administrative Code)(rev. 4/1996), shall be used.
- (C) Notice of ~~termination of a support order~~a modification denial
- ~~(1) When the CSEA has determined, after notification by one of the parties, that reason exists to terminate a support order, the CSEA shall notify the other party of that determination.~~
  - ~~(2) When the CSEA alone has determined that reason exists to terminate a support order, the CSEA shall notify both parties of that determination.~~
  - (1) When the CSEA has determined that a request for modification is not supported, the CSEA shall notify the requesting party of that determination.
  - ~~(3)~~(2) The notification shall include the date and reason for the termination and shall be accompanied by the JFS 04059.
- (D) Notice of case closure
- (1) The CSEA shall notify the recipient of child support services in writing at least sixty ~~calendar~~ days prior to taking administrative action to close the child support case when services are proposed for termination pursuant to paragraph (D)(1) to (D)(7), (D)(11), or (D)(12) of rule 5101:12-10-70 of the Administrative Code.
  - (2) The JFS ~~07647~~ 07046, "Pending Case Closure Notice" (effective or revised effective date as identified in rule 5101:12-10-99 of the Administrative Code), shall be used to provide notification of case closure.

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**SHMTL 37**

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- (A) Whenever an assistance group ~~expresses disagreement~~disagrees with an agency action or lack of action, the agency shall remind the assistance group of the right to request a state hearing via the JFS 04059 "Explanation of State Hearing Procedures" (rev. ~~10/2008~~1/2015). The published hearing rules shall also be made available upon request.
- (B) When ~~denial or termination of benefits is the action with which the assistance group has expressed disagreement~~an assistance group disagrees with a denial or termination of benefits, a reapplication for benefits as well as a hearing request may be appropriate.
- (C) The provisions of this rule do not apply to county public children services agencies (PCSAs) except insofar as the action or inaction complained of involves programs to which state hearing rights apply, in accordance with rules 5101:6-1-01 and 5101:6-3-01 of the Administrative Code.

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## SHMTL 37

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- (A) When the local agency has determined that a cash benefit overpayment has occurred, responsible parties from whom repayment is being sought shall be provided written notice of the overpayment determination.

Notice is also required whenever a previous overpayment determination is revised to change the amount or period of the overpayment.

- (1) The notice shall contain: ~~a clear and understandable statement of the determination and the reasons for it, including the amount and period of the overpayment and any offsetting done to reduce it, cite the applicable regulations, explain the available methods of repayment and the individual's right to and the method of obtaining a county conference and a state hearing, unless there has already been a state hearing on the issue, and contain a telephone number to call about free legal services.~~

- (a) A clear and understandable statement of the determination and the reasons for it, including the amount and period of the overpayment and any offsetting done to reduce it.
- (b) Citations of the applicable regulations.
- (c) An explanation of the available methods of repayment and the individual's right to and the method of obtaining a county conference and a state hearing, unless there has already been a state hearing on the issue.
- (d) A telephone number to call about free legal services.

- (2) The benefit recovery notices, created and maintained by the Ohio department of job and family services and issued through the eligibility system, shall be used.

- (B) When the agency has determined that a ~~food assistance~~ supplemental nutrition assistance program (SNAP) overissuance has occurred, assistance groups from which repayment is being sought shall be provided written notice of the overissuance determination.

Notice is also required whenever a previous overissuance determination is revised to change the amount or period of the overissuance or to change the claim type from administrative error (AE) to inadvertent household error (IHE).

- (1) The notice shall contain: ~~a clear and understandable statement of the determination and the reasons for it, including the amount and period of the overissuance and any offsetting done to reduce it, cite the applicable regulations, explain the available methods of repayment and the assistance group's right to and the method of obtaining a county conference and a state hearing, unless there has already been a state hearing on the issue, and contain the name and telephone number of the person to contact for more information and a telephone number to call about free legal services.~~

- (a) Citations of the applicable regulations.
- (b) An explanation of the assistance group's right to and the method of obtaining a county conference and a state hearing, unless there has already been a state hearing on the issue.

~~(a)~~(c) A clear and understandable statement of the determination and the reasons for it, including the amount and period of the overpayment.

~~(b)~~(d) A statement of how the claim was calculated, including any offsetting done to reduce the overpayment.

- ~~(e)~~(e) A statement expressing the intent to collect from all adults in the assistance group when the overpayment occurred.
  - ~~(d)~~(f) A statement providing an opportunity to inspect and copy records related to the claim.
  - ~~(e)~~(g) An explanation of the available methods of repayment.
  - ~~(f)~~(h) A statement explaining that if the claim is not paid, it will be sent to other collection agencies who will use various collection methods.
  - ~~(g)~~(i) A statement explaining that, if not paid, the claim will be referred to the federal government for federal collection action.
  - ~~(h)~~(j) A statement explaining that if the claim becomes delinquent the assistance group may be subject to additional processing charges.
  - ~~(i)~~(k) The name and telephone number of a person to contact for more information.
  - (l) A telephone number to call about free legal services.
- (2) For inadvertent household error, administrative error and intentional program violation claims, the assistance group shall also be informed of the length of time it has to choose a method of repayment and notify the agency of its decision, and that its allotment will be reduced if it fails to agree to make restitution. For administrative error claims, the assistance group shall also be informed of the availability of allotment reduction as a method of repayment if the assistance group prefers to use this method.
  - (3) The notice shall provide space for the assistance group to indicate the method of repayment, a signature block, and an explanation of the assistance group's right to request renegotiation of any repayment schedule to which it has agreed should its economic circumstances change.
  - (4) The JFS 07442 "Food Assistance Repayment Agreement" (rev. 11/2008), or its ~~electronic~~ computer-generated equivalent shall be used.
  - (5) Notice is not required when the overissuance involves possible fraud and has been referred to the county prosecutor.

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**SHMTL 37**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

(A) If the agency determines that a loss of SNAP benefits has occurred and that the assistance group is or may be entitled to restoration of those benefits, the assistance group shall be provided prompt written notice of the agency's determination.

The notice shall contain:

- (1) A clear and understandable statement of the amount and period of the underissuance, any offsetting that was done and the method of restoration.
- (2) An explanation of the assistance group's right to and the method of obtaining a county conference and a state hearing.
- (3) The name and telephone number of the person to contact for more information.
- (4) A telephone number to call about free legal services.

(B) If the assistance group claims that it is entitled to restoration of lost benefits but the agency, after reviewing the case file, does not agree, the assistance group shall be provided prompt written notice of the denial of its request.

The notice shall contain:

- (1) A clear and understandable statement of the denial and the reasons for it.
- (2) Citations of the applicable regulations.
- (3) An explanation of the assistance group's right to and the method of obtaining a county conference and a state hearing.
- (4) The name and telephone number of the person to contact for more information.
- (5) A telephone number to call about free legal services.

(C) Approval and/or denial notices for lost SNAP benefits are generated through the eligibility system.

Replaces: 5101:6-2-25

Effective: 3/1/2019

Five Year Review (FYR) Dates: 03/01/2024

Certification: CERTIFIED ELECTRONICALLY

Date: 02/05/2019

Promulgated Under: 119.03

Statutory Authority: 5101.35

Rule Amplifies: 5101.35

Prior Effective Dates: 06/02/1980, 10/01/1981, 03/20/1983, 07/01/1983 (Temp.), 08/19/1983, 04/01/1984 (Temp.), 06/01/1984, 01/16/1987 (Emer.), 04/06/1987, 04/01/1989, 10/01/1990, 06/01/1993, 06/01/2003, 09/01/2008, 02/28/2014

**SHMTL 37**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

When the agency approves, denies, or delays an assistance group's request for replacement ~~food assistance~~ SNAP benefits, the assistance group shall be provided written notice of the action.

- (A) The notice shall be mailed or personally delivered no less than ten ~~calendar~~ days from the date the loss was reported, fifteen days if the issuance was made by certified or registered mail, or within two ~~working~~ business days after the agency receives the signed JFS 07222, "Statement Requesting Replacement of ~~Food Assistance~~ Supplemental Nutrition Assistance Program (SNAP) Benefits (rev. 3/2010/10/2016)," whichever is later.

If a notice of delay was issued, the agency shall issue an approval or denial notice within two ~~working~~ business days from the date it receives the information which caused the delay.

- (B) The notice shall contain: ~~a clear and understandable statement of the decision and the reasons for it, cite the applicable regulations, explain the assistance group's right to and the method of obtaining a county conference and a state hearing, and contain a telephone number to call about free legal services.~~

- (1) A clear and understandable statement of the decision and the reasons for it.
- (2) Citations of the applicable regulations.
- (3) An explanation of the assistance group's right to and the method of obtaining a county conference and a state hearing.
- (4) A telephone number to call about free legal services.

- (C) The JFS 07235 "Action Taken on Your Request for Replacement of Food Assistance Benefits (rev. 12/2012)," or its computer-generated equivalent, shall be used.

Effective: 3/1/2019

Five Year Review (FYR) Dates: 11/29/2018 and 03/01/2024

Certification: CERTIFIED ELECTRONICALLY

Date: 02/05/2019

Promulgated Under: 119.03

Statutory Authority: 5101.35

Rule Amplifies: 5101.35

Prior Effective Dates: 02/01/1995, 06/01/2003, 09/01/2008, 02/28/2014

**SHMTL 37**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) The JFS 04022 "Notice of Medical Determination and a Right to a State Hearing" (rev. 3/2002),<sup>1</sup> or its computer-generated equivalent shall be mailed or personally delivered to the individual and authorized representative in the following situations:
- (1) When, as the result of a preadmission review for long-term care, the local agency receives an authorization of a level of care that assigns a noninstitutional level of care, or a level of care that is different from the specific level of care certified by the individual's physician, the local agency shall send notice to the individual and authorized representative, with a copy of the notice filed in the individual's case record.  
  
Notice is not required when the assigned level of care is different from the level of care certified by the individual's physician, but the individual is or will be placed in a facility with dual certification to provide the assigned level of care.
  - (2) When a request for prior authorization for additional hospital stays, visits, or therapeutic leave days beyond thirty days for a medicaid individual with a developmental disability level of care is denied, the local agency shall send the notice to the individual and authorized representative, with a copy of the notice filed in the individual's case record.
  - (3) When a review agency denies or modifies a request for precertification of a hospital admission or medical procedure, the review agency shall send the notice to the individual and authorized representative, with a copy of the notice sent to the local agency.
- (B) The notice shall contain: ~~a clear and understandable statement of the decision and the reasons for it, cite the applicable regulations, explain the individual's right to and the method of obtaining a state hearing, and contain a telephone number to call about free legal services.~~
- (1) A clear and understandable statement of the decision and the reasons for it.
  - (2) Citations of the applicable regulations.
  - (3) An explanation of the individual's right to and the method of obtaining a state hearing.
  - (4) A telephone number to call about free legal services.

Effective: 3/1/2019

Five Year Review (FYR) Dates: 11/29/2018 and 03/01/2024

Certification: CERTIFIED ELECTRONICALLY

Date: 02/05/2019

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Statutory Authority: 5101.35

Rule Amplifies: 5101.35, 5160.011

Prior Effective Dates: 09/01/1976, 04/01/1980, 10/01/1981, 05/01/1982, 07/01/1982, 04/01/1983, 09/24/1983, 11/01/1983 (Temp.), 12/01/1983, 01/01/1984, 03/01/1984 (Temp.), 06/01/1984, 10/03/1984 (Emer.), 12/22/1984, 04/01/1986, 04/01/1987, 09/01/1987, 07/01/1988 (Emer.), 09/25/1988, 10/01/1989, 02/01/1990, 04/01/1991, 06/01/1993, 11/01/1994, 06/01/2003, 09/01/2008, 02/28/2014



**SHMTL 37**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

When a request for prior authorization for a medical or dental service is denied, the individual and authorized representative shall be provided prompt written notice of the decision. Copies shall also be sent to the provider and to the local agency.

- (A) The notice shall contain: ~~a clear and understandable statement of the action taken and the reasons for it, cite the applicable regulations, explain the assistance group's right to and the method of obtaining a state hearing, and contain a telephone number to call about free legal services.~~
- (1) A clear and understandable statement of the action taken and the reasons for it.
  - (2) Citations of the applicable regulations.
  - (3) An explanation of the assistance group's right to and the method of obtaining a state hearing.
  - (4) A telephone number to call about free legal services.
- (B) A notice describing the denial of authorization for medical services or its computer-generated equivalent shall be used.

Effective: 3/1/2019

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Rule Amplifies: 5101.35, 5160.011

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**SHMTL 37-A**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

**(A) Notice of adverse preadmission screening (PAS) determination**

When an applicant for admission to a nursing facility, receives an adverse determination as the result of a preadmission screening (PAS) performed by the Ohio department of mental health and addiction services (MHAS) or the Ohio department of developmental disabilities (DODD), MHAS or DODD shall provide the affected individual with written notice of the determination in accordance with rules 5122-21-03 and 5123:2-14-01 of the Administrative Code.

- (1) The notice shall be mailed or personally delivered to the individual and his or her legal guardian and/or authorized representative, at the time the adverse determination is made.
- (2) The notice shall contain:
  - (a) A clear and understandable statement of the determination and the reasons for it.
  - (b) Citations of the applicable regulations.
  - (c) An outline of the implications of the decision for admission to the facility.
  - (d) An explanation of the individual's right to and the method of obtaining a state hearing.
  - (e) A telephone number to call about free legal services.
- (3) Copies of the notice shall be sent to:
  - (a) The nursing facility.
  - (b) The individual's attending physician.
  - (c) The discharging hospital.
  - (d) The Ohio department of medicaid (ODM) (or designee).

**(B) Notice of adverse resident review (RR) determination**

When a resident of a nursing facility receives an adverse determination as the result of a resident review (RR) performed by MHAS or DODD, the determining agency shall provide the affected individual with written notice of the determination.

- (1) The notice shall be mailed or personally delivered to the individual and his or her legal guardian and/or authorized representative at the time the adverse determination is made.
- (2) The notice shall contain:
  - (a) A clear and understandable statement of the determination and the reasons for it.
  - (b) Citations of the applicable regulations.
  - (c) An outline of the implications of the decision for continued residence in the facility.
  - (d) An explanation of the individual's right to and the method of obtaining a state hearing.
  - (e) A telephone number to call about free legal services.
- (3) Copies of the notice shall be sent to:
  - (a) The nursing facility.
  - (b) The individual's attending physician.
  - (c) The discharging hospital.
  - (d) The ODM (or designee).

Effective: 4/1/2019

Five Year Review (FYR) Dates: 04/01/2024

Certification: CERTIFIED ELECTRONICALLY

Date: 03/18/2019

Promulgated Under: 119.03

Statutory Authority: 5101.35

Rule Amplifies: 5101.35, 5160.011

Prior Effective Dates: 06/01/1997, 10/01/2002, 09/01/2008, 02/28/2014

**SHMTL 37**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) Following the bureau of managed health care's determination that the request does not meet one of the criteria for just cause termination of managed care plan membership, the Ohio department of medicaid, bureau of managed care, ~~must~~shall send a notice to an individual.
- (B) The notice shall contain: ~~a clear and understandable statement that the request was denied, explain why the request for just cause termination of managed care plan membership did not meet the criteria for just cause termination of managed care plan membership, cite the applicable regulations, explain the individual's right to and the method of obtaining a state hearing, and contain a telephone number to call about free legal services.~~
- (1) A clear and understandable statement that the request was denied.
  - (2) An explanation about why the request for just cause termination of managed care plan membership did not meet the criteria for just cause termination of managed care plan membership.
  - (3) Citations of the applicable regulations.
  - (4) An explanation of the individual's right to and the method of obtaining a state hearing.
  - (5) A telephone number to call about free legal services.
- (C) The JFS 01711 "Notice of Right to Terminate Membership in Your Managed Care Plan for Just Cause," (rev. 8/2003), shall be used.

Effective: 3/1/2019

Five Year Review (FYR) Dates: 11/29/2018 and 03/01/2024

Certification: CERTIFIED ELECTRONICALLY

Date: 02/05/2019

Promulgated Under: 119.03

Statutory Authority: 5101.35

Rule Amplifies: 5101.35, 5160.011

Prior Effective Dates: 05/31/2004, 09/01/2008, 02/28/2014

## SHMTL 37

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) The purpose of this rule is to describe the process by which the Ohio department of medicaid (ODM) or a medicaid managed care plan (MCP), as described in rule 5160-26-01 of the Administrative Code, informs an individual of notice and hearing rights for the medicaid coordinated services program (CSP).
- (B) Definitions.
- (1) "Authorized representative" means a person, eighteen years or older, who stands in place of the individual. The authorized representative may include a legal entity. ODM may request proper identification from the authorized representative.
  - (2) "Coordinated services program (CSP)," has the same meaning as described in rule 5160-20-01 of the Administrative Code.
  - (3) "Designated pharmacy" has the same meaning as described in rule 5160-20-01 of the Administrative Code.
  - (4) "Designated provider" has the same meaning as described in rule 5160-20-01 of the Administrative Code.
  - ~~(3)~~(5) "Individual," for the purpose of this rule, means a recipient who is currently receiving medicaid services, either through fee-for-service or through an MCP.
  - ~~(4) "Designated pharmacy" has the same meaning as described in rule 5160-20-01 of the Administrative Code.~~
  - ~~(5) "Designated provider" has the same meaning as described in rule 5160-20-01 of the Administrative Code.~~
- (C) Proposed enrollment into the CSP.
- (1) ~~Not less than fifteen days before enrolling the individual into the CSP, ODM or the MCP shall provide written notice, or its electronic equivalent, to the individual of the proposed enrollment into the CSP~~ODM or the MCP shall provide written notice, or its electronic equivalent, not less than fifteen days before their proposed enrollment into the CSP. The notice shall contain clear and understandable information describing:
    - (a) The effective date of the proposed enrollment into the CSP;\_
    - (b) The reason why ODM or the MCP is proposing enrollment;\_
    - (c) The appropriate Administrative Code citation(s) supporting the decision of ODM or the MCP;\_
    - (d) Where to get additional information regarding enrollment into the CSP, including the phone number for and availability of free legal services;\_
    - (e) Hearing rights as described in division 5101:6 of the Administrative Code, including the individual's rights to appeal the proposed enrollment through a state hearing; ~~and~~ \_
    - (f) The method of and deadline for selecting a designated provider or pharmacy; otherwise, a designated provider or pharmacy will be selected by ODM or the MCP.
  - (2) If the individual requests a state hearing and the hearing request is received by either ODM or the MCP within the fifteen-day prior notice period set forth in rule 5101:6-4-01 of the Administrative Code, ODM or the MCP shall enroll an individual into the CSP no sooner than the hearing decision mail date.
- (D) Continued enrollment into the CSP.

- (1) ODM or the MCP shall provide written notice, or its electronic equivalent, to the individual of the continued enrollment into the CSP. The notice shall contain clear and understandable information describing:
  - (a) The effective date of the continued enrollment into the CSP~~;~~
  - (b) The reason why ODM or the MCP is continuing enrollment~~;~~
  - (c) The appropriate Administrative Code citation(s) supporting the decision of ODM or the MCP~~;~~
  - (d) Where to get additional information regarding continued enrollment into the CSP, including the phone number for and availability of free legal services~~;~~~~and~~
  - (e) Hearing rights as described in division 5101:6 of the Administrative Code, including the individual's right to appeal the continuing enrollment through a state hearing.
- (2) The individual requesting a timely hearing regarding continued enrollment into the CSP shall continue to be enrolled in the CSP until the hearing decision is rendered in accordance with rule 5101:6-4-01 of the Administrative Code.

(E) Denial of designated provider or pharmacy.

- (1) ODM or the MCP shall provide written notice, or its electronic equivalent, to the individual when the individual's request for a designated provider or pharmacy change is denied. The notice shall contain clear and understandable information describing:
  - (a) The name of the denied designated provider or pharmacy~~;~~
  - (b) The reason why ODM or the MCP is denying the request for a change~~;~~
  - (c) The appropriate Administrative Code citation(s) supporting the decision of ODM or the MCP~~;~~
  - (d) Where to get additional information regarding the denial of the designated provider change, including the phone number for and availability of free legal services~~;~~~~and~~
  - (e) Hearing rights as described in division 5101:6 of the Administrative Code, including the right to appeal the denial through a state hearing.
- (2) The individual requesting the hearing regarding the denial of designated provider or pharmacy change shall continue assignment with the current designated provider or pharmacy until the hearing decision is rendered in accordance with rule 5101:6-4-01 of the Administrative Code.

Effective: 3/1/2019

Five Year Review (FYR) Dates: 11/29/2018 and 03/01/2024

Certification: CERTIFIED ELECTRONICALLY

Date: 02/05/2019

Promulgated Under: 119.03

Statutory Authority: 5164.758, 5164.02, 5101.35

Rule Amplifies: 5160.011, 5101.35, 5167.13, 5167.12, 5167.10, 5167.03, 5164.758, 5164.02

Prior Effective Dates: 09/01/1976, 04/01/1980, 10/01/1981, 05/01/1982, 07/01/1982, 04/01/1983, 09/24/1983, 11/01/1983 (Temp.), 12/01/1983, 01/01/1984, 03/01/1984 (Temp.), 06/01/1984, 10/03/1984 (Emer.), 12/22/1984, 04/01/1986, 04/01/1987, 09/01/1987, 07/01/1988 (Emer.), 09/25/1988, 02/01/1990, 06/01/1993, 06/01/2003, 09/01/2008, 05/01/2009, 08/01/2010, 07/01/2011 (Emer.), 01/01/2012, 02/28/2014

**SHMTL 35**

***Effective Date: February 28, 2014 (No Change)***

***Most Current Prior Effective Date: February 28, 2014***

When, as the result of an interim assistance agreement, the local agency receives an individual's retroactive supplemental security income (SSI) payment for initial or initial post-eligibility SSI benefits, the individual and authorized representative shall be provided written notice.

- (A) The notice shall be mailed or personally delivered no later than ten working days following the local agency's receipt of the SSI payment.
- (B) The notice shall contain a clear and understandable statement of the apportionment of the SSI payment and the reasons for it, cite the applicable regulations, explain the individual's right to and the method of obtaining a county conference and a state hearing, and contain a telephone number to call about free legal services.
- (C) "Notice of Interim Assistance Reimbursement," JFS 07107 (rev. 4/2001), or its computer-generated equivalent, shall be used.

Five Year Review (FYR) Dates: 6/26/2018 and 06/26/2023

Certification: CERTIFIED ELECTRONICALLY

Date: 06/26/2018

Promulgated Under: 119.03

Statutory Authority: 5101.35

Rule Amplifies: 5101.35

Prior Effective Dates: 10/01/1990, 06/01/1993, 06/01/2003, 09/01/2008

SHMTL 34

**Effective Date: January 1, 2018**

**Most Current Prior Effective Date: February 28, 2014**

- (A) The right to a state hearing is limited to actions by the Ohio department of job and family services (ODJFS), the Ohio department of medicaid (ODM), the local agency, or an agent of ODJFS, ODM, or the local agency. A hearing need not be granted when a change in state or federal law, or local agency policy adopted pursuant to options authorized in state law, requires automatic adjustments of benefits for classes of recipients. If the reason for the request is the misapplication of the change to the appellant's individual circumstances, hearing rights exist. The closure of fair hearing benefits is not grounds for requesting a state hearing nor subject to notice rights.
- (B) The grounds for requesting a state hearing in regard to family services program benefits are as follows:
- (1) An application for benefits has been denied, acted upon erroneously, or not acted upon with reasonable promptness.
  - (2) The agency has proposed or acted to reduce, suspend, terminate, or withhold benefits, or the assistance group believes that the level of benefits is not correct.
  - (3) A request for an adjustment in benefits has been denied, not acted upon, acted upon erroneously, or not acted upon with reasonable promptness.
  - (4) The agency has determined that an overpayment or overissuance has occurred, or the assistance group believes that the amount of the overpayment or overissuance is not correct.
  - (5) The individual disagrees with any decision, action, or lack of action involving work registration exemption status or requirements, or work activity exemption status or participation.  
A regular employee believes that the assignment of an Ohio works first (OWF) work activity participant violates the prohibition against displacement.
  - (6) A request for prior authorization of a medical service or additional therapeutic leave days has been denied, or the individual believes that the reviewing agency's decision on a request for pre-certification of a hospital admission or medical procedure is not correct.
  - (7) The individual or provider of long-term care believes that the level of care assigned, or the effective date of the level of care assigned, to the individual is not correct.
  - (8) The individual disagrees with a preadmission screening or resident review determination made by the Ohio department of mental health and addiction services or the Ohio department of developmental disabilities.
  - (9) The enrollment or decision to continue enrollment of the individual in the coordinated services program (CSP), or denial of the individual's request to change a CSP-designated provider.
  - (10) In regard to actions involving a medicaid managed care plan (MCP) or "MyCare Ohio" plan (MCOP):
    - (a) The individual disagrees with one of the following actions taken by a medicaid managed care plan:
      - (i) An MCP or MCOP appeal resolution decision based on an adverse benefit determination, as described in rules 5160-26-08.4 or 5160-58-08.4 of the Administrative Code, as applicable.
      - ~~(ii) The denial or limited authorization of a requested service, including the type or level of services.~~
      - ~~(iii) The reduction, suspension, or termination of services prior to the individual receiving the services previously authorized by the plan.~~



~~(iii) The failure to act on a request for services within the timeframe set forth in rule 5160-26-03.1 of the Administrative Code.~~

~~(iv)~~(ii) A managed care plan's enrollment or decision to continue enrollment of the individual in the coordinated services program (CSP), or denial of the individual's request to change a CSP-designated provider.

~~(v)~~(iii) The plan's upholding the denial of payment for a medical service for which the individual is being billed.

~~(b) The right to a state hearing applies only to action or lack of action by the managed care plan. If the action or lack of action with which the individual disagrees is by the individual's physician or another sub-contracting provider, the individual may instead pursue the issue through the managed care plan's grievance process.~~

~~(e)~~(b) The individual disagrees with a decision of ODM that the individual does not meet an exclusion from mandatory managed care plan membership, or a decision to deny the individual's request for just cause termination of membership in an assigned managed care plan and enrollment in a different managed care plan.

~~(c) The MCP or MCOP fails to adhere to the notice and timing requirements for appeals set forth in rule 5160-26-08.4 or 5160-58-08.4 of the Administrative Code.~~

(11) The agency has denied payment for a medical service provided to an individual enrolled in the coordinated services program (CSP) by a nondesignated provider.

(12) The individual disagrees with any decision, action, or lack of action involving assistance under the supplemental security income (SSI) case management program.

(13) The individual feels that a county board that has medicaid local administrative authority under division (A) of section 5126.055 of the Revised Code for home and community-based services violated the right of an individual to choose a provider that is qualified and willing to provide services to the individual.

(14) In the medicaid program, either the institutionalized spouse or the community spouse may request a hearing concerning the following determinations:

(a) Community spouse monthly income allowance.

(b) Community spouse's minimum monthly maintenance needs allowance.

(c) Family allowance.

(d) Community spouse and institutionalized spouse total gross income.

(e) Spousal share of assessed resources.

(f) Current countable resources.

(g) Community spouse resource allowance.

(C) The grounds for requesting a state hearing in the child support (Title IV-D of the Social Security Act (as in effect on February 28, 2014)) program, by an applicant, recipient, or custodial parent are as follows:

(1) An application for child support services has been denied, acted upon erroneously, or not acted upon with reasonable promptness.

~~(2) A recipient of child support services, believes the case has been acted upon erroneously, or not acted upon with reasonable promptness.~~

~~(3)~~(2) The recipient believes that the child support enforcement agency (CSEA) has failed to use appropriate establishment or enforcement techniques.

~~(4)~~(3) The custodial parent believes that child support collections have not been distributed or disbursed correctly or questions the accuracy of the arrears owed to ODJFS at termination of cash benefits.

- ~~(5)~~(4) The custodial parent believes that child support payments, including payments owed to the custodial parent due to agency error, are not being issued with reasonable promptness.
- ~~(6)~~(5) The custodial parent believes that the CSEA has failed to take action against an employer for failure to promptly forward payments withheld from the absent parent's wages.
- ~~(7) The custodial parent disagrees with the results of an investigation concerning termination of a support order.~~
- ~~(8)~~(6) The custodial parent disagrees with the CSEA's decision to close the child support case.
- (7) The custodial parent disagrees with the CSEA's decision to deny a modification request.

(D) The grounds for requesting a state hearing in the child support program by the noncustodial parent are as follows:

- (1) Services for establishing paternity have been denied.
- (2) The CSEA has refused to review the noncustodial parent's support order for modification.
- (3) The noncustodial parent disagrees with the CSEA's decision to deny a modification request ~~results of an investigation concerning termination of a support order.~~

Effective: 1/1/2018

Five Year Review (FYR) Dates: 10/17/2017 and 01/01/2023

Certification: CERTIFIED ELECTRONICALLY

Date: 12/22/2017

Promulgated Under: 119.03

Statutory Authority: 3125.25, 5101.35

Rule Amplifies: 3125.25, 5101.35, 5126.055, 5160.011, 5164.758, 5167.13

Prior Effective Dates: 06/28/1976, 09/01/1976, 10/01/1978, 12/01/1979, 06/01/1980, 06/02/1980, 09/19/1980, 10/01/1981, 02/01/1982, 04/01/1982, 05/01/1982, 10/01/1982, 01/01/1983, 01/17/1983, 04/01/1983, 07/01/1983, 11/01/1983 (Temp.), 12/01/1983, 03/01/1984 (Temp.), 06/01/1984, 05/01/1985 (Emer.), 07/01/1985 (Emer.), 07/30/1985, 09/29/1985, 04/01/1986, 04/01/1987, 04/01/1989, 12/01/1989 (Emer.), 03/22/1990, 10/01/1990, 10/01/1991, 06/01/1993, 02/01/1995, 06/01/1997, 10/01/1997 (Emer.), 12/30/1997, 05/15/1999, 06/01/2003, 05/31/2004, 09/01/2008, 08/01/2010, 07/01/2011 (Emer.), 01/01/2012, 02/28/2014

## SHMTL 34

**Effective Date: January 1, 2018**

**Most Current Prior Effective Date: February 28, 2014**

## (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 made orally, in writing, ~~or submitted written~~ or electronically.

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 including, but not limited to letters of guardianship or power of attorney, 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.
- ~~(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)~~(b) That an individual's spouse or minor individual's parent or legal guardian may request a hearing on behalf of the individual without written authorization.
- ~~(d)~~(c) 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.
- (4) Written authorization is nontransferable. Unless paragraph (A)(3)(a) or (A)(3)(b) of this rule apply, documentary evidence must be in the appellant's hearing record that the appellant, the appellant's legal guardian, or the power of attorney has granted authorization to another individual to represent the appellant in the hearings process. Otherwise, the appellant is the only individual who can grant another individual authorization to represent the individual.

(B) Time limit for all programs except for adverse benefit determination appeal resolution decision for either a managed care plan (MCP) or a "MyCare Ohio" (MCOP) plan.

- (1) The individual shall be allowed ninety calendar days to request a hearing on any action or inaction.
- In the food assistance 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 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 assistance program, the assistance group may request a hearing at any time within the certification period to dispute its current level of benefits.

(C) Time limit for MCP or MCOP for adverse benefit determination appeal resolution decision. For issues related to an adverse benefit determination appeal resolution decision for either a (MCP) or (MCOP) plan, the individual shall have one hundred-twenty calendar days from the mail date of the MCP or MCOP appeal resolution decision to request a state hearing.

~~(D)~~(D) 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.

~~(E)~~(E) In the food assistance program, if the assistance group making the hearing request speaks a language other than English, and the local agency is required by rule 5101:4-1-05 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 orally in that language.

~~(E)~~(F) Complaints concerning discrimination because of age, race, sex, religion, national origin, political beliefs, or handicap shall be referred to the Ohio department of job and family services (ODJFS) equal employment opportunity (EEO) 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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- (A) When a request for a state hearing is received by ~~either~~ the state, a managed care plan (MCP), a "MyCare Ohio" plan (MCOP), or local agency within the fifteen calendar day prior notice period, benefits shall not be reduced, suspended, or terminated until a state hearing decision is rendered unless one of the following occurs:
- (1) A determination is made at the hearing that the sole issue is one of state or federal law, and not one of fact or judgment.
  - (2) The appeal is withdrawn or abandoned pursuant to rule 5101:6-5-03 of the Administrative Code.
  - (3) A change affecting the assistance group's eligibility or level of benefits occurs while the decision is pending and the assistance group fails to timely request a hearing upon receipt of the subsequent notice of adverse action.
  - (4) A mass change that adversely affects an assistance group's eligibility for food assistance or basis of issuance occurs while the hearing decision is pending.
  - (5) The assistance group specifically waives continuation of food assistance benefits.  
The section for requesting a state hearing on the prior notice contains a space for the assistance group to indicate whether it desires to waive continued food assistance benefits. If the assistance group does not positively indicate that it waives continued benefits, the local agency shall assume that continued benefits are desired.
  - (6) The assistance group's food assistance certification period expires. Further entitlement to food assistance benefits cannot be established without recertification based upon a new application as provided in rule 5101:4-7-07 of the Administrative Code.
  - (7) The assistance group's learning earning and parenting (LEAP) supportive services, and support services provided to participants in a work activity under the Ohio works first (OWF) program, or the food assistance employment and training program are being reduced or terminated.
  - (8) The MCP or MCOP member specifically waives continuation of medicaid benefits.
  - ~~(8)~~(9) ~~The managed care plan~~MCP or MCOP continues the provision of medical services and the member receives the services previously requested by the provider and authorized by the ~~managed care plan~~MCP or MCOP before the hearing decision is rendered. Further entitlement to medical services cannot be established without a provider requesting additional services and the ~~managed care plan~~MCP or MCOP making a medical necessity determination.
  - (10) If, upon the expiration of a period of authorized service, the enrollee requests further services, denial of that request shall be considered a denial, rather than a reduction, suspension, or termination, of service and continuation of benefits will not apply.
- (B) When benefits are reduced, suspended, or terminated in violation of the provisions of paragraph (A) of this rule, benefits shall be reinstated to the previous level.
- (C) When the request for a state hearing is received by the state or local agency within ten calendar days after the effective date of the adverse action (the ten-day time limit does not apply in the food assistance program), and when good cause is shown for the delay in making the request, benefits shall be reinstated to the previous level. "Reinstatement of benefits to the previous level" means that benefits shall be reinstated retroactive to the date the benefits were reduced, suspended, or terminated.
- (1) "Good cause" is defined as death in the immediate family, sudden illness, or injury of the individual or a member of the individual's immediate family, or other circumstances that reasonably prevented requesting a hearing within the timely notice period.

- (2) Food assistance benefits shall not be reinstated when the assistance group has specifically waived continuation of benefits, or when the certification period has expired.
- (D) When an adverse action was taken without prior notice, pursuant to paragraph (A) of rule 5101:6-2-05 of the Administrative Code, and when the hearing request is received by either the state or local agency within fifteen calendar days from the mailing date of the notice of adverse action, benefits shall be reinstated to the previous level.
- (E) When food assistance benefits are reduced or terminated because of a mass change, and when the assistance group's hearing request is received by either the state or local agency within fifteen calendar days from the mailing date of the mass change notice, food assistance benefits shall be reinstated to the previous level if the following conditions are met:
- (1) The reason for the assistance group's appeal is an erroneous application of the mass change to the individual case.
  - (2) The assistance group does not specifically waive its right to continuation of benefits.
  - (3) The food assistance certification period has not expired.
- (F) If the need for reinstatement is discovered by the local agency, the local agency shall authorize reinstatement within one work day of the date of discovery. If the need for reinstatement is discovered by the bureau of state hearings, the bureau shall immediately order the responsible agency to reinstate benefits. All reinstatement orders shall be in writing. The agency shall respond to reinstatement orders by authorizing benefits within one work day of receipt of the order. Benefits so reinstated shall continue until the state hearing decision is rendered unless one of the conditions in paragraph (A) of this rule is met.
- (G) ~~Managed care plan~~ MCP or MCOP issues.
- (1) When a hearing request involves an adverse benefit determination appeal resolution within the prior notice period, as described in rules 5160-26-08.4 or 5160-58-08.4 of the Administrative Code ~~When a hearing request involving a medicaid managed care plan's proposed reduction, suspension, or termination of a managed care plan authorized service is received by the state or local agency within the prior notice period,~~ the managed care plan MCP or MCOP shall be responsible for ~~assuring ensuring that assistance is~~ benefits are continued at or reinstated to the previous level until the services that were authorized by the ~~managed care plan~~ MCP or MCOP are received or until the state hearing decision is issued, whichever date comes first.
  - (2) Service shall be continued or reinstated when a timely hearing request is received unless the appellant's physician certifies, in writing to the bureau of state hearings, that continuation of the service would pose a substantial risk of adverse health consequences.
  - (3) Nothing in this rule shall require an individual physician to continue a service for an enrollee if that physician believes that to do so would violate the provisions of section 4731.22 of the Revised Code.
  - (4) When a hearing request involving an MCP or MCOPs ~~a managed care plan's~~ proposed enrollment in the coordinated services program (CSP), defined in rule 5160-20-01 of the Administrative Code, is received by the state or local agency within the prior notice period, the MCP or MCOP ~~managed care plan~~ will not enroll the member in the CSP until the state hearing decision is issued.
  - (5) ~~Managed care plans~~ MCPs and MCOPs are ~~will not be~~ required to provide continuation of benefits except for the reasons outlined in paragraphs (G)(1) and (G)(4) of this rule.
- (H) The denial or delay of replacement food assistance benefits, under the provisions of rule 5101:4-7-11 of the Administrative Code and paragraph (A)(1)(a) of rule 5101:6-5-02 of the Administrative Code, shall remain in effect pending the state hearing decision. When a nonadverse action is required, the agency shall proceed with that action. In the child support program, the child support enforcement agency (CSEA) shall continue to provide services, as otherwise appropriate, without regard to any hearing requests that have been made.

- (l) When a hearing request involving ODJFS's proposed enrollment in the CSP, defined in rule 5160-20-01 of the Administrative Code, is received by the state or local agency within the prior notice period, ODJFS will not enroll the individual in the CSP until the state hearing decision is issued.

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- (A) The bureau of state hearings shall handle the receipt and processing of the request for a state hearing. When the hearing request is made to the local agency, the local agency shall date stamp the request, retain a copy, and mail or transmit the request to "ODJFS, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825," or fax to 614-728-9574 or email to bsh@jfs.ohio.gov, within one business day from the date of receipt.
- (B) The local agency proposing the action about which the individual requested the state hearing shall complete an appeal summary. The summary consists of a prescribed form (the JFS 04067 "Appeal Summary" (rev. 5/2001), or for a medicaid managed care plan or "MyCare Ohio" plan the ODM 01959 "Appeal Summary for Managed Care Plans" (rev. 7/2014) ~~JFS 01959 "Appeal Summary for Managed Care Plans" (rev. 6/2003)~~) and attachments, and is intended to provide a summary of all facts and documents relevant to the issue under appeal sufficient to demonstrate the basis for the local agency's action.

The local agency shall file its appeal summary with the bureau of state hearings at least three business days prior to the scheduled hearing date, and also make it available to the individual or authorized representative at least three days prior to the hearing for inspection. Failure to do so may be considered good cause for postponing or continuing the hearing if the individual has been materially disadvantaged by the failure.

- (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 the local agency's actions or inaction. ~~For a medicaid managed care plan, the plan's appeal or grievance process substitutes for the county conference requirement.~~
- (2) When an individual requests a county conference, the local agency shall convene a conference presided over by the local agency's 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 local agency can show, by a preponderance of the evidence, that its action or inaction was in accordance with applicable regulations. 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 assigned hearings section within two business days. The local agency shall give one copy of the withdrawal to the individual and retain one copy in the case file.
- (4) The local agency shall schedule a county conference for assistance groups contesting a denial of expedited food assistance within two business days, unless the assistance group requests that the county conference be scheduled later or states that it does not wish to have a county conference.

(D) Managed care plan (MCP) and "MyCare Ohio" plan process. Upon notification from the bureau of state hearings (BSH) that a member has requested a state hearing, the MCP or MCOP shall notify BSH



within three calendar days whether or not the member has exhausted the plan appeal resolution process, as described in rules 5160-26-08.4 and 5160-58-08.4 of the Administrative Code.

~~(D)~~(E) Legal representation

~~Both the individual and the local agency~~ All parties have the right to be represented by legal counsel at the state hearing. The local agency shall provide the individual with information regarding free legal services in the community, as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code and upon request from the appellant, via the JFS 04059 "Explanation of State Hearing Procedures" (rev. ~~10/2008~~1/2015). The local agency may provide legal services through a social services contract.

~~(E)~~(F) 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 local 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 local agency shall provide one copy of each such document at no cost. The authorized representative must provide the individual's signed authorization to the local agency before 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 local agency's failure to provide or allow access to the information, at least three days prior to scheduled hearing, as required by this paragraph, 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 or "MyCare Ohio" plan, the provisions of paragraphs ~~(E)(1)~~, ~~(E)(2)~~, ~~(E)(4)~~, and ~~(E)(5)~~ of this rule shall apply to the managed care plan and "MyCare Ohio" plan, its subcontracting providers, and all relevant records.

~~(F)~~(G) Subpoenas

- (1) Both the local agency and the individual or authorized representative may request in writing, at least five calendar days prior to the date of the state hearing, that ODJFS 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 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 or "MyCare Ohio" plan, the managed care plan or "MyCare Ohio" plan shall have the same subpoena rights as the local agency.

~~(G)~~(H) Transportation

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

~~(H)~~(I) Translations of hearing decisions

If an individual or authorized representative requests that a hearing decision be translated, the bureau of state hearings shall provide a translation in accordance with the "Ohio Department of Job and Family Services Language Access Policy" (rev. 4/3/2008) at [http://jfs.ohio.gov/civilrights/pdf/LEP\\_Policy\\_12.pdf](http://jfs.ohio.gov/civilrights/pdf/LEP_Policy_12.pdf).

~~(H)~~(J) Interpreters for hearings

If an individual or authorized representative has limited proficiency in English or communicates using sign language, the local agency shall provide an interpreter for the individual or authorized representative, at the request of the individual, authorized representative, or hearing authority. The bureau of state hearings will work with all local agencies to insure interpreter services at a reasonable cost to the local agencies when it comes necessary to utilize such services.

~~(J)~~(K) Group hearings

- (1) The bureau of state hearings 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 the JFS 04059, along with the scheduling notice.

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- (A) Postponement is a request prior to the hearing date to schedule the hearing for a later date.
- (1) Public assistance, social services and child support services
    - (a) The hearing may be postponed at the request of the individual or authorized representative when good cause, as defined in rule 5101:6-5-03 of the Administrative Code, exists.
    - (b) The hearing authority shall have final authority to determine whether good cause exists. Verification of good cause may be required.
    - (c) The hearing authority shall have final authority to deny repeated requests for postponement.
    - (d) Postponement shall not extend the time limit for issuing a state hearing decision.
  - (2) Food assistance
    - (a) The assistance group is entitled to postponement of its scheduled hearing date, not to exceed thirty calendar days. A postponement shall be granted one time per appeal.
    - (b) If postponement is requested, state hearings shall reschedule the hearing at the earliest available time and date convenient to the assistance group.
    - (c) The sixty-day time limit for issuing a decision shall be extended by as many days as the hearing is postponed.
- (B) Postponement shall not affect continuation of assistance.
- (C) When a request for postponement is denied, the individual or authorized representative must attend the scheduled hearing or be subject to dismissal as described in rule 5101:6-5-03 of the Administrative Code.
- (D) The postponement rights described in paragraphs (A), (B) and (C) of this rule apply only to the individual, and not to the agency.
- (E) The local agency, managed care plan, or "MyCare Ohio" plan may request one postponement not later than seven days prior to the hearing. No postponement will be granted if it will prevent state hearings from issuing the decision within applicable time limits.

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- (A) The local agency shall not deny or dismiss any request for a state hearing. All requests shall be sent to the bureau of state hearings, in accordance with rule 5101:6-5-01 of the Administrative Code.
- (B) When a state hearing request is denied or dismissed, the individual and authorized representative shall be provided written notice describing the denial or dismissal, with a copy to the local agency.

When a hearing request involves multiple issues, and when the appellant withdraws his or her request with regard to some but not all of the issues under appeal, notice of dismissal of the withdrawn appeals may be included in the JFS 04005 "State Hearing Decision" (rev. 3/2003) rather than provided via separate notice.

When the hearing request 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 notice shall be sent to the appropriate medical determination unit.

When the hearing request involves ~~action or lack of action by~~ a managed care plan or "MyCare Ohio" plan, copies of the notice shall be sent to the managed care plan or "MyCare Ohio" plan and to the unit within the Ohio department of ~~job and family services (ODJFS) administering the~~ medicaid (ODM) administering the medicaid managed care programs managed care program.

- (C) Except as provided in paragraph (D)(1) of this rule, a state hearing request may only be denied prior to the mailing of the JFS 04002 "~~State Hearing Scheduling Notice~~ Notice to Appear for a Scheduled Hearing" (rev. ~~9/2002~~1/2015), and only for the following reasons:

- (1) The request is untimely, as defined by rule 5101:6-3-02 of the Administrative Code.
- If the request indicates that proper notice was not received, the request shall be accepted and the issue of timeliness shall be determined as a preliminary matter at the hearing.
- (2) The request was not made by the individual or authorized representative, or written authorization specifically designating the person making the request to act on the individual's behalf was not submitted with the request.
- Such a denial must be consistent with the provisions of rule 5101:6-3-02 of the Administrative Code.
- (3) The request concerns an issue that is not appealable under the provisions of rule 5101:6-3-01 of the Administrative Code.
- If the issue as stated in the request is unclear, the bureau of state hearings shall request clarification from the individual.
- (4) The sole issue of the request is a change in state or federal law, or local agency policy adopted pursuant to options authorized in state law, that requires automatic adjustments of benefits for classes of recipients, unless the reason for the request is the misapplication of the change to the appellant's individual circumstances.
- (5) The request concerns the placement of the assistance group for food assistance on an alternate issuance system or the length of time the assistance group remains on this system.
- (6) It is clear that the issue has been previously decided through the state hearing process.

- (D) After a state hearing request is scheduled, ~~it may no longer be denied, but must be heard, or dismissed as described in paragraphs (E)(1) and (E)(2) of this rule. Dismissal of a state hearing request constitutes a binding decision on the hearing request. In the event that a dismissal notice is issued in error, it may be reversed by the hearing authority allowing for the state hearing process to continue.~~

- (1) A state hearing request may be denied after it is scheduled:
    - (a) In accordance with rule 5101:6-10-1 of the Administrative Code,
    - (b) When the appellant has not exhausted all managed care plan appeal processes in accordance with rule 5160-26-08.4 of the Administrative Code, or
    - (c) When the appellant has not exhausted all "MyCare Ohio" plan appeal processes in accordance with rule 5160-58-08.4 of the Administrative Code.
  - (2) For any program or issue not identified in paragraph (D)(1) of this rule, a state hearing request may no longer be denied, but must be heard, or dismissed as described in paragraphs (E)(1) and (E)(2) of this rule. Dismissal of a state hearing request constitutes a binding decision on the hearing request.
  - (3) In the event that a dismissal notice is issued in error, it may be reversed by the hearing authority allowing for the state hearing process to continue.
- (E) A request for a state hearing may be dismissed only for the following reasons:
- (1) The appellant or authorized representative withdraws the hearing request, before the state hearing decision is issued.
  - (2) The request is abandoned. A state hearing request is "abandoned" when the individual or authorized representative fails, without good cause, to attend the state hearing. A "state hearing" is defined as the initial state hearing, a hearing that has been rescheduled, or a hearing that has been continued.
    - (a) When the hearing has been abandoned, the individual and authorized representative shall be notified that the hearing request will be dismissed if good cause for failing to attend is not shown within ten days of the mailing date of the notice.
    - (b) The hearing shall be rescheduled if the individual or authorized representative contacts the hearing authority, in writing or by telephone, within the ten-day period and establishes good cause.
    - (c) The request shall be dismissed as abandoned if the bureau of state hearings does not receive a showing of good cause within the ten-day period. The date of dismissal is the day after the ten-day period ends.
    - (d) If the individual contacts the hearing authority but fails to establish good cause, the individual shall be given written notice of that determination and of the right to and the method of obtaining an administrative appeal. Copies shall be sent to the local agency.
    - (e) "Good cause" is defined as death in the immediate family, sudden illness or injury of the individual or a member of the individual's immediate family, or other circumstances that reasonably prevented attendance at the hearing.
    - (f) The hearing authority shall have final authority to determine if good cause was timely shown. Verification of good cause may be required.

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- (A) Time and place of the hearing
- (1) The hearing shall be conducted at a reasonable time, date, and place. The hearing will usually be conducted at the local agency, since it is usually most convenient to the individual. However, there may be circumstances which warrant conducting the hearing at another time, date, or place. In these cases, efforts shall be made to schedule the hearing at a time, date, and place convenient to all parties involved.
    - (a) The bureau of state hearings may elect to have the hearing officer participate via video conference, with the appellant and the county representatives participating at the local agency.
    - (b) Documents shall be provided to the hearing officer for inclusion in the record in accordance to the requirements for telephone hearings as set forth in rule 5101:6-6-04 of the Administrative Code.
    - (c) State hearings conducted via video conference shall be considered face to face hearings.
  - (2) When a hearing request can be identified as involving a prevention retention and contingency (PRC) program issue, dealing with an emergent need, or a denial of expedited food assistance, the hearing shall be scheduled and conducted more quickly than other requests, if necessary, so that the decision can be issued within the thirty-day period specified in rule 5101:6-7-01 of the Administrative Code.
  - (3) The hearings section shall expedite food assistance hearing requests from assistance groups, such as migrant farm workers, that plan to move from the county before the hearing decision would normally be issued.
    - (a) Hearing requests from these assistance groups shall be scheduled and conducted more quickly than other requests, if necessary, to enable them to receive a decision, and a restoration of benefits if appropriate, before they leave the county.
    - (b) To qualify, the assistance group must submit, in writing if possible, its planned date of move. When this information is provided in an oral request, the local agency shall put the information in writing and forward it to the district hearings section with the hearing request, if possible, or immediately upon receipt.
  - (4) Hearings involving the determination of the community spouse resource allowance shall be conducted within thirty days of the date of the hearing request. This requirement shall not prevent the granting of otherwise appropriate postponements and continuances.
  - (5) When the hearing is conducted at the local agency, the local agency shall provide adequate accommodations where the hearing can be conducted in privacy, with the proper decorum, and with a minimum of distractions.
- (B) The bureau of state hearings shall send written notice of the time, date, and place of the hearing to the individual and authorized representative, to the local agency, and to the medical determination units identified in paragraph (C)(1) of this rule, who may be participating, via use of a notice describing the date, place, and time of the state hearing.
- (1) A copy of the scheduling notice shall be retained and included in the hearing record.
  - (2) This notice shall be mailed at least ten calendar days prior to the date of the hearing, unless the appellant or authorized representative requests less advance notice in order to expedite scheduling. Expedited hearings may be granted at the discretion of the hearing authority.

- (3) When the hearing request involves ~~action or lack of action by~~ a managed care plan or "MyCare Ohio" plan, copies of the scheduling notice shall be sent to the managed care plan or "MyCare Ohio" plan and upon request to the Ohio department of medicaid, ~~bureau of managed care.~~
- (4) The scheduling notice shall:
  - (a) Provide the name, address and telephone number of the person to notify if the individual cannot attend the hearing.
  - (b) Explain that the hearing request will be dismissed if the appellant or authorized representative fails, without good cause, to appear for the hearing.
  - (c) Explain state hearing procedures and provide other information necessary for the individual's understanding of the proceedings and the effective presentation of his or her case.
  - (d) Explain that the appellant or representative may examine the case file prior to the hearing.

(C) Attendance

- (1) Attendance at the hearing is limited to the following:
  - (a) The agency representative.
  - (b) The individual and/or authorized representative.
  - (c) Legal representation for the individual and for the agency.
  - (d) Witnesses called by the individual and the agency to present relevant testimony.
  - (e) Other persons, only if the individual agrees and if their attendance does not interfere with the orderly conduct of the hearing.
- (2) When the hearing involves one of the medical determination issues listed in this paragraph, the agency representative shall be an employee of the medical determination unit or agency, or an agent of that office.
  - (a) Medical determination issues include the following:
    - (i) Prior authorization for medical services.
    - (ii) Need for long-term care.
    - (iii) Determination of disability and incapacity.
    - (iv) Precertification of hospital admissions and medical procedures.
    - (v) Preadmission screening and resident review (PASRR) determinations made by the Ohio department of mental health and addiction services and the Ohio department of developmental disabilities.
    - (vi) Coordinated services program (CSP) issues, including enrollment, continued enrollment, denial of a requested designated provider change, and denial of payment for services by a nondesignated provider.
    - (vii) Home and community-based services (HCBS) waiver determinations.
    - (viii) County board of developmental disabilities actions.
  - (b) The medical determination unit shall participate in the hearing, either in person or by telephone.
  - (c) If the medical determination unit is to participate in the hearing by telephone, such participation shall be as described in rule 5101:6-6-04 of the Administrative Code.
- (3) When the hearing involves ~~action or lack of action by~~ a managed care plan or "MyCare Ohio" plan, a representative of the managed care plan or "MyCare Ohio" plan shall participate in the hearing as the agency representative.



The managed care plan or "MyCare Ohio" plan representative shall participate in the hearing either in person or by telephone.

If the managed care plan or "MyCare Ohio" plan representative ~~is to~~ participates in the hearing by telephone, such participation shall be as described in rule 5101:6-6-04 of the Administrative Code.

- (4) Any disputes regarding attendance shall be resolved by the hearing officer prior to the hearing.

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**SHMTL 34**

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(A) The agency representative

The agency representative presents and is the advocate for the agency's case at the hearing. This person shall explain the reasons for the agency's action, cite the regulations upon which the action was based, provide relevant case information and documents, and answer relevant questions from the individual and the hearing officer. The agency representative has the same rights as the individual to confront and cross-examine during the hearing. If the issue being addressed at the hearing is an action taken by the agency, based on the agency's prevention, retention and contingency (PRC) plan, and the agency wants to have the application of that plan considered in the decision making process, a copy of the plan must be provided to the hearing officer for inclusion in the record.

~~When the hearing involves action or lack of action by a managed care plan, the managed care plan representative shall have the same rights and responsibilities as those of the agency representative.~~

~~(1) If the issue being addressed at the hearing is an action taken by the agency, based on the agency's prevention, retention and contingency (PRC) plan, and the agency wants to have the application of that plan considered in the decision making process, a copy of the plan must be provided to the hearing officer for inclusion in the record.~~

(B) The individual making the hearing request

- (1) The individual and representative shall have the opportunity to present their case in their own way. The hearing shall be conducted informally, and formal rules of evidence shall not apply.
- (2) The individual and authorized representative shall have adequate opportunity to:
  - (a) Examine, at a reasonable time before the hearing as well as during the hearing, the contents of the case file, except for confidential information protected from release, as well as all records and documents to be used by the local agency at the hearing.
  - (b) Bring witnesses.
  - (c) Submit evidence to establish all pertinent facts and circumstances.
  - (d) Advance arguments without undue interference.
  - (e) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(C) The hearing officer

- (1) State hearings shall be conducted by an impartial Ohio department of job and family services (ODJFS) hearing officer who has no personal stake or involvement in the case and was not directly involved in the initial determination being appealed. The hearing officer shall be under the direction and supervision of the bureau of state hearings.
- (2) The hearing officer shall not consult with either party concerning the substance of the case prior to the hearing, except for review of the hearing request and appeal summary.
- (3) Hearings are normally held at the local agency office. The hearing officer shall assure that the accommodations provided by the local agency for the hearing are adequate and that the hearing can be conducted in privacy, with the proper decorum, and with a minimum of distractions.
- (4) The hearing officer shall regulate attendance at the hearing in accordance with rule 5101:6-6-01 of the Administrative Code. If space is limited, witnesses may be called into the hearing room one at a time.

- (5) The hearing officer shall begin the hearing by starting the recording equipment and providing the following introductory information:
  - (a) The name and role of the hearing officer, the case name, and the appeal number.
  - (b) How the hearing will be conducted, including the order of presentation and questioning.
  - (c) The time frame within which a decision must be issued.
  - (d) Who will issue the decision.
  - (e) How the parties will be notified of the decision.
  - (f) Where the complete hearing record will be kept after the decision is issued.
  - (g) The available appeal rights.
- (6) After the opening remarks, the hearing officer shall state the issue to be heard, as it appears on the hearing request. The issue shall always be whether the agency's action or inaction was in accordance with applicable regulations. The hearing officer shall entertain requests from either party to amend the issue as stated. Amendment is appropriate so long as it does not substantially alter the nature of the issue or the ability of the parties to address the issue at the hearing. Any amendment of the issue as stated on the hearing request shall be formally recorded.
- (7) The hearing officer shall ask both parties for any additional issues, and shall rule on their inclusion in the hearing. An additional issue may be heard only if both parties agree, and if the hearing officer determines that both parties are prepared to address the additional issue and that there is adequate time to do so.
- (8) The hearing officer shall record the name and role of each person in attendance and shall administer an oath or affirmation to all who intend to offer testimony. If the appellant or authorized representative declines to take the oath or affirmation, the hearing officer shall abandon the hearing in accordance with paragraph (E)(2) of rule 5101:6-5-03 of the Administrative Code. An attorney serving as an authorized representative shall only be required to take the oath or affirmation if the attorney testifies.
- (9) The hearing officer shall regulate the order of presentation by the parties. Normally, the agency presentation will be made first, subject to questioning by the individual and the hearing officer, followed by the individual's presentation, subject to questioning by the agency and the hearing officer. Both parties will then be allowed a brief closing statement.
- (10) In regulating the conduct of the hearing, the hearing officer is responsible for developing the fullest possible record upon which to base all necessary findings of fact. Each party shall be treated fairly and impartially and given adequate opportunity to address the issues. The hearing officer has an affirmative obligation to assist unrepresented individuals in understanding the nature of the issue and the regulations that relate to it, and in presenting testimony and evidence necessary to address all relevant factual questions. The hearing officer shall take an active part in questioning the parties and the evidence presented, insofar as that is necessary to develop the fullest possible record.
- (11) After all relevant testimony and evidence has been presented, the hearing officer shall determine whether a sufficient record has been developed upon which to make the decision. If not, the hearing officer may either order that the hearing be continued to a later date or leave the record open for the submission of additional evidence.
  - (a) Where relevant and useful, the hearing officer may order an independent medical assessment or professional evaluation.
  - (b) If the hearing is to be continued to a later date, the hearing officer shall schedule the continuance at the earliest possible date acceptable to all parties and shall formally record the new date and time, as well as the specific purpose of the continuance.

Notification of the parties at the hearing shall be followed by written notification via state hearing scheduling notice.

- (c) If the record is to be left open to allow the submission of additional documentary evidence, the hearing officer shall formally record the nature and purpose of the additional evidence and shall establish the earliest possible realistic deadline for its submission to the hearing officer.
  - (d) Additional evidence submitted prior to the deadline shall be forwarded to the other party with notice of the deadline for response. Evidence submitted after the deadline may be returned to the submitting party with notice that it will not be used in reaching the decision.
  - (e) The hearing officer shall also have the authority to reconvene the hearing if the nature of the additional evidence or response requires. When the record has been left open for submission of additional evidence by the agency, the individual shall always be afforded the right to rebut such evidence in person at a reconvened hearing if he or she chooses.
  - (f) When the record has been left open, the hearing decision shall so indicate, and shall record the resulting submissions or failure to submit, as well as the substance of any rebuttal.
- (12) If assistance has been continued due to a timely appeal, the hearing officer shall determine, prior to adjourning the hearing, whether the sole issue is one of state or federal law and not one of fact or judgment.
  - (13) The hearing officer shall close the hearing by informing the parties when they can expect the written decision, adjourning the hearing, and turning off the recording equipment.
  - (14) Following the hearing, the hearing officer shall not discuss the substance of the case with either party, unless at a supplemental hearing at which both parties are present.
  - (15) Finally, the hearing officer shall prepare the JFS 04005 "State Hearing Decision" (rev. ~~3/2003~~ 1/2015), to include the issue, findings of fact, conclusions of policy, and recommendations, and submit it to the assigned hearing authority for issuance.

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**SHMTL 38**

**Effective Date: March 1, 2019**

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- (A) All state hearings shall be recorded by the hearing officer. The recording shall be started at the beginning of the hearing and shall continue until the hearing is concluded. There shall be no testimony or other proceedings off the record. The recording shall not be altered or edited in any manner or for any reason.
- (B) The recording of the hearing shall not be a part of the official hearing record. The recording shall be maintained for thirty ~~calendar~~ days after the issuance of the hearing decision unless an administrative appeal has been requested. If an administrative appeal is requested, the recording shall be maintained for seven months after all administrative appeal proceedings have been completed. The recording may be erased after expiration of the ~~above~~ period identified in this paragraph.
- (C) The individual, authorized representative, or agency may request a copy of the recording. The bureau of state hearings shall respond to such requests within two ~~workdays~~ business days whenever possible, and shall mail the copy free of any charge. Nonreceipt of a copy of a recording within the administrative appeal period shall not result in an extension of the administrative appeal period.
- (D) The individual, authorized representative, and/or the agency may record the hearing, at their own expense, so long as it does not seriously interfere with the orderly conduct of the hearing.
- (E) If, during the administrative appeal process, it is found that the hearing officer's recording is lost or unusable (for example, because it has been damaged or because material portions of the recording are inaudible), the administrative appeal hearing examiner shall remand the case to the state hearing officer for a new hearing if the individual takes material issue with the recitation of the testimony set forth in the hearing decision.

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SHMTL 38

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- (A) The bureau of state hearings may schedule some or all hearings as telephone hearings, following the procedures outlined in this paragraph.
- (1) Telephone hearings shall normally be conducted with all participants except the hearing officer present at the local agency office. The hearing officer shall conduct the hearing, as described in rule 5101:6-6-02 of the Administrative Code, by telephone from the hearing officer's office or other site suitably equipped with the proper telephone equipment.
- When a telephone hearing concerns one of the medical determinations listed in paragraph (C)(2) of rule 5101:6-6-01 of the Administrative Code, the agency representative shall participate in the hearing as described in that paragraph.
- (2) Scheduling telephone hearings shall be done in accordance with the following:
- (a) If the hearing is to be scheduled as a telephone hearing, the JFS 04002 "~~State Hearings Scheduling~~ Notice to Appear for Scheduled Hearing" (rev. 1/2015-09/02) or its computer-generated equivalent shall inform the individual of that fact and that he or she may choose to have a face-to-face hearing instead. The JFS 04002 is generated in the hearings and appeals tracking system (HATS X).
- (b) The JFS 04002 shall include a telephone number which the individual can call free of charge to request a face-to-face hearing and shall explain that a request for a face-to-face hearing ~~must~~shall be made no later than three ~~calendar~~ days prior to the date of the hearing.
- (c) Hearings initially scheduled as telephone hearings that are rescheduled as face-to-face hearings at the individual's request shall be rescheduled in accordance with rule 5101:6-6-01 of the Administrative Code.
- (3) Documents shall be made available to the hearing officer for inclusion in the official hearing record as follows:
- (a) The agency shall be responsible for submitting an appeal summary with all relevant documents to the appropriate hearings office as required by rule 5101:6-5-01 of the Administrative Code. In the case of a hearing in which the sole issue is that of a disability determination or disability onset date, the disability determination area (DDA) representative ~~will~~shall not routinely participate in the hearing. A copy of the appeal summary ~~will~~shall be sent to the appellant prior to the hearing date, explaining that the appeal summary ~~will~~shall stand in place of DDA participation, and if the appellant chooses to have a DDA representative participate in the hearing, a request, either in writing or orally, can be made to the hearing authority and arrangement for participation ~~will~~shall be made.
- (b) The individual shall be responsible for providing any documents he or she wants considered to the appropriate hearings office prior to the hearing. The local agency shall assist in copying and sending such documents if the individual requests.
- (c) If, during the hearing, it is determined that not all necessary documents have been received by the hearing officer, the agency shall transmit the additional documents to the hearing officer, so that they may be examined by the hearing officer before the conclusion of the hearing.
- (d) If it is not possible to transmit the additional documents to the hearing officer before the conclusion of the hearing, the record shall be held open until they are received. The

individual shall be given the option of having the hearing reconvened when the additional documents are received.

Once the additional documents are received and reviewed, the hearing officer may also decide to reconvene the hearing to resolve questions which arise upon review.

- (e) Documents that were not available for the individual to review during the hearing may not be submitted to the hearing officer after the hearing, unless the individual is provided the opportunity for rebuttal as required by rule 5101:6-6-02 of the Administrative Code.
  - (4) For all hearings scheduled as telephone hearings, the local agency shall be responsible for providing a suitable hearing room equipped with a speaker telephone capable of clear, recordable transmission of the testimony of the participants.
  - (5) The hearing officer is responsible for ensuring that the hearing is recorded clearly so that a complete transcription may be made if required.
  - (6) All other hearing procedures contained in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code apply equally to telephone hearings.
- (B) The following procedures apply when a medical determination unit or other party is to participate in the hearing by telephone.
- (1) The hearing office shall be responsible for the following:
    - (a) Notifying the local agency that the hearing ~~will~~shall involve telephone participation, so that a suitable hearing room can be provided.
    - (b) Notifying the medical determination unit or other party of the date and time of the hearing and obtaining the telephone number where the representative can be reached on the day of the hearing.
  - (2) The local agency shall be responsible for the following:
    - (a) Providing a suitable hearing room.
    - (b) Providing a staff member to attend the hearing and to bring the individual's case file, including, if applicable, the appeal summary and supporting documentation provided by the medical determination unit.
  - (3) When the individual, local agency staff member, and hearing officer are present and ready to begin the hearing, the hearing officer shall call the medical determination unit or other party, assure that the speaker phone and tape recording equipment are working properly, and begin the hearing.
  - (4) The hearing shall be conducted in accordance with rule 5101:6-6-02 of the Administrative Code.
  - (5) The hearing officer shall be responsible for assuring that new, previously unavailable evidence is described in sufficient detail for the individual participating by telephone to offer rebuttal.

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**SHMTL 34**

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(A) Hearing authority

- (1) The bureau of state hearings is responsible for preparing and issuing state hearing decisions under the authority of the director of the Ohio department of job and family services (ODJFS). For this purpose, the chief of the bureau of state hearings shall designate hearing authorities in addition to the chief to review the findings, conclusions, and recommendations of the hearing officers and to issue decisions under the authority of the ODJFS director.
- (2) 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 the prevention, retention and contingency (PRC) program shall be issued within thirty calendar days from the date of the hearing request.
- (3) Hearing decisions involving food assistance 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 assistance 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 public assistance and food assistance adverse actions, the hearing decision shall be issued according to public assistance timeliness standards.
- (4) Hearing decisions involving the medicaid program shall be issued within seventy calendar days from the date of the hearing request. This period shall be reduced to three working days in the following instance:
  - (a) The hearing request is from an enrollee of a medicaid managed care plan or "MyCare Ohio" plan; and
  - (b) The enrollee, or the enrollee's authorized representative, claims that the request requires an expedited resolution because taking the time for a standard resolution could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function; and
  - (c) The bureau of state hearings agrees that an expedited resolution is required.

(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 (as in effect on ~~February 28, 2014~~ July 1, 2017) 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.

- (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 rules of the Administrative Code.
- (d) The hearing officer's findings of fact shall be binding upon the hearing authority. However, the hearing authority may return the case to the hearing officer if it is determined 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.

- (2) The hearing officer's conclusions of policy and recommendations shall be based solely on rules of the Administrative Code, 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 (PRC) program, the hearing officer's conclusions of policy and recommendations shall be based on the PRC statement of policies if it was submitted at the hearing and if the submitted plan was effective as of the date of the action being appealed.
- (b) 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.
- (c) 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, 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.
  - (a) If the appellant withdraws some, but not all of the appeals, because there is no longer need for review by a higher authority on those appeals, the withdrawal is to be included in the decision, requiring no additional action on those appeals.
  - (b) If during the course of the hearing, the appellant withdraws some or all of the issues under appeal, contingent upon some corrective action agreed to by the agency, the hearing officer shall issue a state hearing decision, indicating that agreement and requiring the agency to comply with the action as agreed to during the hearing. This decision shall be issued via the JFS 04005 "State Hearing Decision" (rev. ~~3/2003~~ 1/2015).

#### (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 and shall include a summary of the hearing officer's recommendations for resolution of the issue. When multiple issues are involved, they shall be set forth separately and numbered for reference in the remainder of the decision.
- (2) The procedural matters 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, the dates the appeal summary was received by the bureau of state hearings and the appellant, continuation of benefits (if applicable), and status of subpoena request (if applicable).
- (3) The findings of fact shall follow procedural matters. The findings of fact shall be clear and orderly chronological discussion of the facts and events relevant to the issue.
- (4) The conclusions of policy shall cite and summarize relevant portions of rules of the Administrative Code and other applicable regulations as necessary, and shall clearly demonstrate how they apply to the facts established. 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.  
Food assistance decisions shall also cite applicable federal regulations.  
Budget computations, where relevant, shall be clearly set forth.
- (5) 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 the JFS 04068 ~~"State Hearing Compliance" (rev. 5/2004)~~ "Order of Compliance Notice" (rev. 1/2015), as necessary to assure that the individual promptly receives all benefits ordered by a favorable decision.
- (6) 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 the JFS 04005. The decision shall provide notice of the right to and the method of obtaining an administrative appeal. A copy of the decision shall also be sent to the local agency electronically, as an e-mail attachment.
- (2) When the hearing involves one of the medical determination issues listed in paragraph (C)(1) 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 or "MyCare Ohio" plan, copies of the decision shall also be sent to the managed care plan or the "MyCare Ohio" plan, and upon request to the ~~unit within ODJFS administering the~~ Ohio department of medicaid managed care program.

(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 maintained by the bureau of state hearings in accordance with applicable record retention requirements. It will be made available for review by the individual and authorized representative upon request. The local agency shall be provided a copy upon request as well.

(G) Library of decisions

The chief of the bureau of state hearings 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 or "MyCare Ohio" plan for the individual case for which the decision was rendered.

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SHMTL 38

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(A) Purpose

This rule sets forth the standards to be applied in a state hearing requested for the purpose of revising a community spouse's minimum monthly maintenance needs allowance in accordance with rule ~~5160:1-3-24~~ 5160:1-6-07 of the Administrative Code, or the community spouse resource allowance in accordance with rule ~~5160:1-3-36.1~~ 5160:1-6-04 of the Administrative Code. In so doing, this rule incorporates by reference the definitions set forth in those rules and the standards for evaluating income and resources. An appellant may request a single hearing for revising both the minimum monthly maintenance needs allowance and the community spouse resource allowance, which the hearing officer may continue to successive dates as necessary to determine both issues.

(B) Minimum monthly maintenance needs allowance

- (1) If either the community spouse or the institutionalized spouse establishes at a state hearing that the community spouse needs additional income above the level otherwise provided by the existing minimum monthly maintenance needs allowance, the hearing decision shall substitute the allowance with an amount adequate to provide such additional income to the community spouse as is necessary, notwithstanding the minimum monthly maintenance needs allowance cap set forth in rule ~~5160:1-3-24~~ 5160:1-6-07 of the Administrative Code.
- (2) The standard for granting such a revision in the minimum monthly maintenance needs allowance is that the community spouse's need for additional income is due to exceptional circumstances that have resulted in significant financial duress. Exceptional circumstances are those that are more rare than occur in everyday life, such as acts of God or accidents and illnesses that result in personal harm or property damage. Significant financial duress is the result of an exceptional circumstance only when the community spouse is faced with a financial obligation that exceeds the spouse's ability to also pay reasonable living expenses from income or resources that exceed the community spouse resource allowance.
- (3) A substituted minimum monthly maintenance needs allowance may not exceed the institutionalized spouse's income minus personal needs allowance. It ~~must~~shall be tailored to the circumstance of significant financial duress and may be time-limited as appropriate to the circumstance.

(C) Community spouse resource allowance

- (1) An existing community spouse resource allowance may not be revised in a hearing decision if the income of the institutionalized spouse, minus the personal needs allowance, is adequate to raise the income of the community spouse to the minimum monthly maintenance needs allowance. The minimum monthly maintenance needs allowance standard periodically increases, which may create a need for additional income to be diverted from the institutionalized spouse to the community spouse. An additional allocation of resources shall not be made to the community spouse when the minimum monthly maintenance needs allowance standard increases unless the institutionalized spouse's income, minus personal needs allowance, is inadequate to raise the income of the community spouse to the minimum monthly maintenance needs allowance.
- (2) If either the community spouse or the institutionalized spouse establishes at a state hearing that the existing community spouse resource allowance, in relation to the amount of income generated for the community spouse by the allowance, is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance in effect at the time of

the hearing, the hearing decision shall substitute for the allowance an amount adequate to provide such a minimum monthly maintenance needs allowance.

- (3) Procedure for determining a substituted community spouse resource allowance
- (a) The substitute community spouse resource allowance needed to meet the deficit between the minimum monthly maintenance needs allowance and income available to the community spouse shall be based on the cost of a single premium lifetime immediate monthly payment annuity (SPLIMPA) with monthly payments equal to the deficit, excluding income currently generated by both spouse's countable resources. Either spouse ~~must~~shall produce at the hearing three written SPLIMPA cost estimates from three different commercial sources that are each designed to produce monthly payments as closely equal to the deficit as is practicable. Upon request the local agency shall offer assistance obtaining the estimates. Estimates of an annuity that is a delayed payment annuity, a time-period certain, an annuity with a death benefit, or an annuity that guarantees return of the principle is not a SPLIMPA and cannot be used to determine the amount of additional resources needed.
  - (b) The amounts of the three estimates shall be averaged to determine the average cost of a SPLIMPA. The average of the three SPLIMPA estimates must show the cost of a SPLIMPA that generates income equal to the difference between the minimum monthly maintenance needs allowance, and the total income of the community spouse and institutionalized spouse less the personal needs allowance. If the averaged cost of the SPLIMPA is less than the current community spouse resource allowance, the allowance shall not be changed by the hearing decision. If the averaged cost of the SPLIMPA is more than the current community spouse resource allowance, the allowance shall be substituted with the averaged cost.
  - (c) Neither the community spouse nor the institutionalized spouse shall be required to purchase a SPLIMPA as a result of the application of this rule at a state hearing. However, if a substituted community spouse resource allowance has been granted through a state hearing that applied this rule, the income that was projected by the approved SPLIMPA average will be deemed to the community spouse whenever a determination or redetermination of the monthly income allowance is computed.
- (D) An appeal requested in accordance with this rule for a revision in a monthly minimum maintenance needs allowance or community spouse resource allowance may be overruled if a community spouse or institutionalized spouse has not made a reasonable effort to qualify for any available source of income or resources that would make the revision unnecessary in whole or in part.

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SHMTL 34

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(A) Responsibility

- (1) When the hearing decision orders action to be taken by the agency, the agency that is ordered to take the action is responsible for promptly and fully implementing the decision.
- (2) State hearings is responsible for monitoring timely compliance with decisions.
- (3) When the hearing decision orders action to be taken by a managed care plan or "MyCare Ohio" plan, the managed care plan or "MyCare Ohio" plan is responsible for promptly and fully implementing the decision.

The ~~bureau of managed care~~, Ohio department of medicaid (ODM); is responsible for timely compliance with decisions involving compliance by a managed care plan or "MyCare Ohio" plan.

(B) Promptness

- (1) Decisions that order action favorable to the individual
  - (a) For decisions involving public assistance, social services or child support services, compliance shall be achieved within fifteen calendar days from the date the decision is issued, but in no event later than ninety calendar days from the date of the hearing request.
  - (b) For decisions involving food assistance, any increase in benefits must be reflected in the food assistance allotment within ten calendar days of receipt of the decision, even if the local agency must provide a supplement, outside the normal issuance cycle.

The local agency may take longer than ten days if it elects to make the decision effective in the assistance group's normal issuance cycle, provided that issuance will occur within sixty calendar days of the date of the hearing request. If the local agency elects to follow this procedure, the benefit increase may be reflected in the normal issuance cycle or with a supplementary issuance.

~~(c) When the hearing has been requested in response to the simultaneous proposal of public assistance and food assistance adverse actions, compliance shall be achieved according to public assistance timeliness standards.~~

~~(d)~~(c) Compliance shall be promptly reported to the bureau of state hearings, via a notice certifying the agency's compliance with the state hearing decision, and accompanied by appropriate documentation substantiating compliance is met.

When the hearing decision orders action to be taken by a managed care plan or a "MyCare Ohio" plan, ~~the managed care plan~~ each shall also send a copy of the notice certifying the agency's compliance with the state hearing decision, to ODM, ~~bureau of managed care~~.

- (2) Decisions that authorize action adverse to the individual
  - (a) The agency shall implement the decision promptly, if still appropriate.
  - (b) When the adverse action results in a decrease in the assistance group's food assistance benefits, the decrease shall be reflected in the next issuance cycle following receipt of the hearing decision.

(C) Date compliance is achieved

- (1) For decisions involving public assistance, social services or child support services, compliance shall be considered achieved on the date eligibility, payment, or services are authorized or other action ordered by the hearing decision is taken.
- (2) For decisions involving food assistance, compliance shall be considered achieved on the date the action is reflected in the assistance group's food assistance allotment.

(D) Underpayments/underissuances

- (1) When the decision determines that the individual has been improperly denied benefits or has received fewer benefits than were due, any underpayments must be corrected in accordance with rules 5101:1-23-60, 5101:1-5-50 and/or 5101:4-8-03 of the Administrative Code.
- (2) The local agency shall restore food assistance benefits to assistance groups that are leaving the county before the departure whenever possible. If benefits are not restored prior to departure, the local agency shall forward an authorization of the benefits to the assistance group or to the new county if this information is known.

The new county shall accept an authorization and issue the appropriate benefits whether the notice is presented by the assistance group or received directly from another county.

(E) Overpayments/overissuances

- (1) Overpayments related to the appeal are subject to collection in accordance with rule 5101:1-23-70 of the Administrative Code.
- (2) When the appeal involves food assistance, a claim against the assistance group for any overissuance related to the appeal must be prepared in accordance with rule 5101:4-8-15 of the Administrative Code.

(F) Prior authorization issues

- (1) When a hearing decision reverses a denial of prior authorization for medical service and authorizes the service, the approval unit shall approve the prior authorization, using the normal prior authorization procedure. The approval notification sent to the provider shall be accompanied by a copy of the hearing decision.
- (2) When a hearing decision reverses a denial of prior authorization for additional therapeutic leave days for a medicaid recipient with a developmental disabilities (DD) level of care in a long-term care facility, the bureau of state hearings shall send a copy of the decision to the long-term care facility. The hearing decision constitutes authorization for the additional leave days.

(G) Precertification issues

When a hearing decision changes a review agency's decision on a request for precertification of a hospital admission or medical procedure, the bureau of state hearings shall send a copy of the decision and a notice certifying the agency's compliance with the state hearing decision to the review agency.

The review agency shall certify those hospital days or medical procedures authorized by the decision using the normal precertification procedure, complete the notice certifying the agency's compliance with the state hearing decision, and send it to state hearings.

(H) Coordinated services program (CSP) issues

When a hearing decision changes a decision by the recipient monitoring and review section concerning proposed or continued enrollment in the CSP or denial of a request for a change of designated provider, the bureau of state hearings shall send a copy of the decision to the recipient monitoring and review section. The recipient monitoring and review section shall take the actions ordered by the decision, complete the notice certifying the agency's compliance with the state hearing decision, and send it to state hearings.

(I) Preadmission screening resident review (PASRR) issues

When a hearing decision changes a preadmission screening (PAS) or resident review (RR) determination made by the Ohio department of mental health and addiction services or the Ohio department of developmental disabilities, the hearing decision shall constitute the revised PAS or RR determination.

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**SHMTL 34**

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- (A) An individual who disagrees with a state hearing decision, or with a decision by the hearing authority to deny or dismiss a hearing request, has the right to request an administrative appeal.

The administrative appeal process does not apply to administrative disqualification hearing decisions.

An administrative appeal may only be requested by or on behalf of an individual applying for or receiving benefits. An administrative appeal may not be requested by the local agency, the state agency, or another entity, such as a managed care plan or "MyCare Ohio" plan, acting for or in place of the local or state agency.

The administrative appeal process is the responsibility of the bureau of state hearings.

- (B) Notice of the right to and the method of obtaining an administrative appeal shall be included on the state hearing dismissal notice, on the JFS 04005 "State Hearing Decision" (rev. ~~3/2003~~1/2015), and on the notice of failure to establish good cause for abandonment required by rule 5101:6-5-03 of the Administrative Code.

- (C) Administrative appeal requests

- (1) A state hearing decision, or a decision by the hearing authority to deny or dismiss a hearing request, will be reviewed for one or more of the following reasons:

- (a) The decision is contrary to the weight of the evidence presented.
- (b) A prejudicial error was committed in the course of the proceedings.
- (c) The decision relies on an incorrect application of law or rule.
- (d) When a decision is regarding the prevention, retention and contingency (PRC) program, the decision relies on an incorrect application of the following:
  - (i) The Ohio department of job and family services (ODJFS) model design, developed under section 5108.03 of the Revised Code, if the county department of job and family services (CDJFS) involved adopted it; or
  - (ii) CDJFS's written statement of policies adopted under section 5108.04 of the Revised Code and any amendments the CDJFS has adopted to the statement.

- (2) A "request for an administrative appeal" is defined as a clear expression, by the individual or authorized representative, to the effect that he or she wishes to appeal a state hearing decision or a decision of the hearing authority to deny or dismiss a state hearing request.

- (3) The request must be in writing and signed by the individual or authorized representative.

Written authorization must accompany all requests made on the individual's behalf by an authorized representative, unless the representative was the authorized representative of record at a previous stage in the proceedings, or unless one of the conditions described in rule 5101:6-3-02 of the Administrative Code is met.

- (4) The request must be received by the bureau of state hearings, within fifteen calendar days from the date the decision being appealed was issued.

- (D) Continuing assistance

The filing of an administrative appeal request will not automatically stay implementation of the initial state hearing decision, denial, or dismissal. However, the bureau of state hearings may choose to exercise the department's inherent authority to delay implementation of a decision when an administrative appeal appears to be meritorious and when the appeal cannot be processed to completion in time to prevent loss of benefits to the individual. In these situations, the bureau of state

hearings shall issue a written directive to the local agency, with a copy to the individual and to the appropriate office. Such an interim order, either to stay implementation or to reinstate assistance, shall not constitute a decision on the merits of the appeal, but only serves to preserve the status quo until a decision on the merits can be made.

(E) Dismissal

(1) An administrative appeal request may be dismissed because:

- (a) It is not made by the individual or authorized representative, as required by paragraph (C)(3) of this rule.
- (b) It is not timely, as defined by paragraph (C)(4) of this rule.

(2) The bureau of state hearings shall provide written notice of dismissal to the individual and authorized representative. Copies shall be provided to the local agency for inclusion in the case file and to the appropriate office.

(F) Docketing

Once an administrative appeal request has been accepted, the bureau of state hearings shall docket the appeal, assigning it to an administrative appeal hearing examiner.

(G) If the administrative appeal hearing examiner determines that the original decision and the appeal request do not contain sufficient information upon which to decide the appeal, the official hearing record and/or the recording of the hearing may be reviewed. The hearing examiner will not convene a new hearing.

(H) Administrative appeal hearing examiners

Administrative appeals shall be assigned to and decided by an impartial administrative appeal hearing examiner who has no personal stake or involvement in the case and was not directly involved in the initial decision being appealed.

This person shall be an attorney assigned to the bureau of state hearings and delegated authority by the ODJFS director.

Decisions of the hearing examiner shall be subject to approval by the ODJFS director or a designee.

(I) Administrative appeal decisions

(1) After reviewing the initial decision, the individual's appeal request, and the hearing record and/or recording if appropriate, the hearing examiner, subject to review and approval in accordance with paragraph (H) of this rule, shall issue an administrative appeal decision which addresses the issues of fact and law raised in the appeal request.

(2) Administrative appeal decisions shall be issued within fifteen calendar days from the date of the administrative appeal request.

(3) The administrative appeal decision shall affirm the initial decision when the hearing examiner determines that the initial decision contains no error affecting the outcome of the appeal (except as noted in paragraph (I)(6) of this rule).

(4) The administrative appeal decision shall reverse the initial decision when the hearing examiner determines that the initial decision contains an error which resulted in an outcome adverse to the individual. Administrative appeal decisions which reverse the initial decision shall contain instructions concerning corrective action and shall require compliance via JFS 04068 "~~State Hearing Compliance~~" (rev. 5/2004) "Order of Compliance Notice" (rev. 1/2015) when appropriate.

(5) The administrative appeal decision shall vacate the initial decision and remand the case to the original hearing officer when the hearing examiner determines that the record developed does not contain sufficient information to decide the appeal.

- (a) If benefits were continuing due to a timely hearing request, an administrative appeal decision that vacates the original decision and remands the case to the hearings section

has the effect of preserving or reactivating the individual's procedural right to continuation of benefits. The agency is responsible for responding immediately to a vacate and remand decision and ensuring that benefits are continued. If the original decision has been implemented, the agency shall immediately reinstate benefits to the previous level.

- (b) If the factual determination for which the case is being remanded can be made by reviewing the existing hearing record, a supplemental hearing is not necessary. If the existing record is not sufficient, a supplemental hearing shall be convened. If the administrative appeal decision specifically requires the convening of a supplemental hearing, that order shall be followed.
- (c) Supplemental hearings shall be scheduled on a priority basis. Written notice shall be provided and shall be accompanied by a copy of the administrative appeal decision and any further instructions necessary to ensure that all parties understand the purpose and scope of the supplemental hearing.
- (d) If the individual or authorized representative fails, without good cause, to appear for a supplemental hearing, the hearing officer shall review the existing hearing record to determine if the facts for which the case was remanded are already established therein.
  - (i) If so, a supplemental decision shall be issued, clearly indicating that a supplemental hearing was scheduled but the individual did not appear, that the record was reviewed, and that the necessary additional facts were established from that review. This shall be followed by the appropriate conclusions of policy and recommendations based on those facts.
  - (ii) If some or all of the additional facts cannot be established from the record, a supplemental decision shall be issued, clearly indicating that the individual did not appear for the supplemental hearing and that the hearing record was reviewed but was silent as to one or more of the factual issues for which the case was remanded. This shall be followed by the appropriate conclusions of policy and recommendations based on the facts that are available.
  - (iii) If the individual does not appear for the supplemental hearing, no discussion of the merits of the appeal shall occur between the hearing officer and the agency.
- (6) In no event shall the administrative appeal process result in a determination more adverse to the individual than was contained in the initial decision being appealed.
- (7) The individual and authorized representative shall be provided with the written administrative appeal decision, which shall include notice of the right to judicial review, or other appeal rights, as appropriate. Copies of the decision shall be sent to the local agency and to the appropriate office.

When the administrative appeal involves one of the medical determinations 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.

When the administrative appeal involves ~~action or lack of action by~~ a managed care plan or "MyCare Ohio" plan, copies of the decision shall also be sent to the managed care plan or "MyCare Ohio" plan and upon request to the Ohio department of medicaid ~~bureau of managed care~~.

(J) Administrative appeal hearing record

The administrative appeal decision, together with all requests, documents, and correspondence filed in the proceeding, shall constitute the exclusive administrative appeal hearing record. The record shall be compiled, certified and maintained by the bureau of state hearings in accordance with applicable record retention requirements and made available for review by the individual and authorized representative.

(K) Library of administrative appeal decisions

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

(L) Finality

- (1) An administrative appeal decision that affirms or reverses the initial decision being appealed shall constitute the final and binding administrative decision on the issue(s) involved.
- (2) An administrative appeal decision that vacates the original decision and remands the case to the assigned hearings section does not constitute a final administrative resolution, since the supplemental decision issued on remand shall be subject to further administrative appeal.

(M) Compliance

Compliance with administrative appeal decisions shall be in accordance with rule 5101:6-7-03 of the Administrative Code.

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**SHMTL 38**

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- (A) Any countylocal agency that disagrees with a state hearing decision, to which it was a party, may request that the decision be reviewed by the bureau of state hearings, through a process similar to the administrative appeal process described in rule 5101:6-8-01 of the Administrative Code.
- (1) The request mustshall be signed by the agency director and received by the bureau of state hearings, ~~within thirty calendar days from the date the decision being sent for review was issued~~ no later than thirty days after the decision was mailed. In lieu of a hard copy request, requests for county review can be made via E-mail from the agency director.
  - (2) The request mustshall include the reason why the director would like the decision reviewed. A decision will be reviewed if the director asserts the decision relies on an incorrect application of the law or rule.
  - (3) The request for review willshall not stay the implementation of the state hearing decision nor willshall it change the outcome of the state hearing decision.
  - (4) If the written request does not meet the requirements of paragraphs (A)(1) and (A)(2) of this rule, the bureau of state hearings willshall dismiss the request for review by sending written notice of dismissal to the countylocal agency.
  - (5) Once a request is accepted for review, the bureau of state hearings willshall issue a county review decision, within thirty days from the date the request for review is received. Copies of the review decision willshall be sent to all hearing supervisors and hearing officers in state hearings, the relevant policy areas and the countylocal agency.
- (B) The medical determination units identified in rule 5101:6-6-01 of the Administrative Code, may also request county review of a state hearing decision to which they are a party by following the procedures outlined in paragraph (A) of this rule. The written request, either in hard copy or via e-mail however, mustshall be submitted by the chief of the bureau that retains administrative responsibility for that unit.
- (C) State hearings shall maintain a library of all county review decisions. The decisions shall be available for public inspection and copying, subject to applicable disclosure safeguards.

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(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 that 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 Job and Family Services, Office of Legal and Acquisition Services, 30 East Broad Street 31st Floor, Columbus, Ohio 43215-3414." 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 and acquisition 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 and acquisition services mails the administrative appeal decision.
  - (c) The notice of appeal shall state the names of the individual and the Ohio department of job and family services (ODJFS), 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

Upon receipt of the notice of appeal, the office of legal and acquisition services shall certify the records to the court.
- (6) Recording/transcript of the hearing
  - (a) The individual or authorized representative may request a copy of the tape recording of the hearing from the office of legal and acquisition services.

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

One copy of the recording shall be provided, within two workdays whenever possible, free of any charge.
  - (b) If the court orders ODJFS to file a transcript of the state hearing, in accordance with section 5101.35 of the Revised Code, ODJFS 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 and acquisition services shall immediately forward a copy to the appropriate agency.
- (b) The agency 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 and acquisition services shall send a copy of the order to state hearings, 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 or "MyCare Ohio" plan, the office of legal and acquisition services shall immediately forward a copy to the managed care plan or "MyCare Ohio" plan and the ~~bureau of managed care~~, Ohio department of medicaid (ODM).

The managed care plan or "MyCare Ohio" plan shall be responsible for promptly and fully implementing the order.

~~The~~ ODM ~~bureau of managed care~~ shall be responsible for assuring prompt and full implementation of the order.

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

- (1) Administrative appeal decisions involving complaints by regular employees about violation of the regular employee displacement prohibitions, and complaints by Ohio works first (OWF) participants about on-the-job working conditions, workers compensation coverage or work experience program (WEP) 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:  
"Chief Docket Clerk  
Office of Administrative Law Judges  
Suite 400  
800 K Street NW  
Washington, DC 20001-8002"
- (4) The appeal must contain:
  - (a) The full name, address, and telephone number of the individual.
  - (b) The provisions of the Social Security Act (as in effect on 2/28/2014) 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 Administration for Children and Families

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 ODJFS.
  - (a) Upon receipt of such a request, the office of legal and acquisition 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.
  - (b) Upon receipt of the state hearing record and the administrative appeal hearing record, the office of legal and acquisition services shall certify the records to the office of administrative law judges.
  - (c) ODJFS 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 and acquisition services shall immediately forward copies to the appropriate local agency and state hearings. State hearings shall be responsible for assuring prompt and full implementation of the decision.

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Date: 12/22/2017

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Statutory Authority: 5101.35, 3125.25

Rule Amplifies: 3125.25, 5160.011, 5101.35

Prior Effective Dates: 10/14/1988 (Emer.), 12/22/1988, 07/01/1991, 10/01/1991, 06/01/1993, 06/01/1997, 05/15/1999, 06/01/2003, 09/01/2008, 02/28/2014



**SHMTL 36**

**Effective Date: December 10, 2018**

**Most Current Prior Effective Date: July 25, 2016**

- (A) This rule describes the hearing process for an individual who has been referred for or received comprehensive case management and employment program (CCMEP) services. Nothing in this rule would preclude an appellant from pursuing appeal rights under Section 181(c) of the Workforce Innovation and Opportunity Act (WIOA), Pub. L. No. 113-128 (as in effect on ~~April 18, 2016~~ August 1, 2018) or 45 C.F.R. 205.10 (as in effect on ~~April 18, 2016~~ August 1, 2018) for "Temporary Assistance for Needy Families" (TANF).
- (B) Definitions.
- (1) "Appellant," for the purposes of this rule, means an individual who has been referred for CCMEP services, or who is already receiving CCMEP services, who appeals to the bureau of state hearings any CCMEP-related dispute, and includes an individual younger than age eighteen, if the individual is represented by a parent, legal guardian or custodian, or authorized representative.
  - (2) "Authorized representative" has the same meaning as described in rule 5101:6-1-01 of the Administrative Code.
  - (3) "Exit notice" means a written notice of adverse action terminating CCMEP eligibility in accordance with rule 5101:14-1-06 of the Administrative Code.
  - (4) "Federal timeliness period" means the date on which a state hearing request is first received by the bureau of state hearings plus ninety calendar days. If the ninetieth calendar day falls on a weekend or holiday, then the next business day shall be the ninetieth day for the purpose of timeliness.
  - (5) "Individual" means any person, at least age sixteen but not more than age twenty-four years, who is referred for CCMEP services, or who is already receiving CCMEP services; and, if the person is under age eighteen, includes the person's parent, legal guardian or custodian, or authorized representative.
  - (6) "Informal conference" means a meeting facilitated by the "Equal Opportunity Officer" (EOO) or the EOO designee during which the facts and circumstances attending a complaint are examined in an effort to informally resolve a complaint.
  - (7) "Issued," when used in reference to notices, decisions, and other documents, means the date the document is sent by U.S. mail or hand-delivered, whichever is earlier.
  - (8) "Local agency" means a county department of job and family services, a workforce development agency, or both. A local agency may also be considered a lead agency for the purposes of this rule.
  - (9) "Local area" has the same meaning as described in Section 3 of WIOA.
  - (10) "Local hearing" means a quasi-judicial forum convened and presided over by the local agency hearing officer.
  - (11) "Parent" means a natural or adoptive parent, or step-parent.
  - (12) "Services" has the same meaning as described in paragraph (E) of rule 5101:14-1-02 of the Administrative Code.
- (C) Basis for CCMEP appeals. Any individual referred for CCMEP services, receiving CCMEP services, or who believes he or she should have been receiving CCMEP services, may file a complaint and/or request a hearing, as described in paragraph (D) of this rule, whenever the individual believes the local agency has erred in fulfilling its duties, as described in Chapter 5101:14-1 of the Administrative Code.

Any such request may be verbal or in writing and must identify how the alleged violation of Chapter 5101:14-1 of the Administrative Code affects the individual's receipt of CCMEP services.

(D) Complaint and appeal process for CCMEP.

- (1) The complaint and appeal process described in this rule shall not apply to an individual who receives an Ohio works first (OWF) sanction termination notice, as described in rule 5101:1-3-15 of the Administrative Code, as an OWF sanction appeal may be pursued in accordance with rule 5101:6-3-01 of the Administrative Code.
- (2) Process for appeals when an exit notice is received, as described in rule 5101:14-1-06 of the Administrative Code.
  - (a) In the event the individual receives an exit notice from the local agency, the individual shall be permitted to appeal by requesting a state hearing. The individual shall be provided ninety calendar days from the date the CCMEP exit notice is mailed to submit a timely state hearing request. If the ninetieth day falls on a weekend or holiday, then the next business day shall be recorded as the ninetieth day. The appellant may withdraw the state hearing request at any time prior to a state hearing being held or a decision being issued.
  - (b) Exit notices or notifications issued by the bureau of state hearings, the local area, or the local agency may be sent by U.S. mail or hand delivered to the individual. While the individual may also choose to receive electronic notices, any electronic notifications will be in addition to, and not in place of, notification by U.S. mail or in-person delivery.
- (3) Except as provided in paragraphs (D)(1) and (D)(2) of this rule, the process for all CCMEP-related complaints and appeals shall be as provided:
  - (a) An individual who wishes to file a CCMEP-related complaint shall first file a complaint with the local agency with sufficient details to identify the parties and to describe generally the alleged actions, practices, or violations that caused the complaint to be filed. The individual is given three hundred sixty-five days from the date of the CCMEP-related incident that caused the dispute, to make a complaint. Within ten calendar days of the date the complaint is received, the local agency shall hold an informal conference with the individual.
  - (b) If a satisfactory resolution is not reached through the informal conference, the local agency shall afford the individual an opportunity for a local hearing. If the individual requests a local hearing, the local agency shall schedule and hold a local hearing and issue a decision within sixty calendar days of the date the CCMEP-related complaint was initially filed.
  - (c) If a timely local hearing decision is issued, and either the individual or local agency disagrees with the decision, then that party may appeal by requesting a state hearing with the bureau of state hearings. A request for a state hearing shall be made within ninety calendar days of the date the local hearing decision is issued by the local agency.
  - (d) If, within sixty calendar days of the date the individual first files a complaint with the local agency, the local agency fails to conduct the informal conference or local hearing, or issue the local hearing decision, then the individual shall be permitted to request a state hearing directly with the bureau of state hearings. A state hearing request made under this provision shall be made within three hundred sixty-five days from the date of the initial CCMEP-related incident that caused the complaint to be filed with the local agency.

(E) Denial notices sent by the bureau of state hearings shall be issued to the appellant and, when applicable, to the local agency, in writing or by its electronic equivalent, as permitted by federal law. Denials of state hearing requests ~~or administrative appeal requests~~ for CCMEP shall occur when:

- (1) The request is not timely, as described in paragraph (D) or (J)(2)(c) of this rule.
- (2) The request was not made by the appellant.

- (3) The issue is not appealable as a basis described in paragraph (C) of this rule.
  - (4) The sole issue is a change in federal or state policy.
  - (5) The issue was previously decided through the state hearing process.
  - (6) The appellant has not complied with paragraphs (D)(3)(a) and (D)(3)(b) of this rule, and a scheduling notice was issued in error.
- (F) An appellant who fails to participate on the day of the scheduled state hearing date may not be rescheduled without providing evidence of good cause, as outlined in paragraph (E)(2)(e) of rule 5101:6-5-03 of the Administrative Code. The appellant shall have ten calendar days from the mailing date of the abandonment notice to provide evidence of good cause. Any denial of good cause shall be sent by the bureau of state hearings to the appellant in writing or by its electronic equivalent, as permitted by federal law.
- (G) Preparing for and conducting the state hearing shall be administered in accordance with rules 5101:6-6-01 to 5101:6-6-04 of the Administrative Code.
- (H) The state hearing decision shall be processed in accordance with rule 5101:6-7-01 of the Administrative Code, excepting the timely issuance provision. The state hearing decision shall be issued within the federal timeliness period.
- (I) When a state hearing officer issues a decision ordering compliance, the local agency shall have fifteen calendar days or the federal timeliness period, whichever is less, to comply with the order. Compliance is achieved upon review and approval of the compliance documentation demonstrating the hearing officer's recommendations have been followed by the local agency.
- (J) Second level appeal rights.
- (1) Appeal to the U.S. department of labor. If the state hearing decision identifies the services as being funded under WIOA, the party adversely affected by the decision may appeal to the department of labor, as described in Section 181(c) of WIOA.
    - (a) The appellant or local agency shall file the appeal request with the "U.S. Department of Labor Secretary" by certified mail, return receipt requested. The appellant shall also send a copy of the appeal by U.S. mail to the:
      - (i) "Employment and Training Regional Administrator," and the
      - (ii) "Ohio Department of Job and Family Services, Bureau of State Hearings."
    - (b) Upon receipt of the department of labor response, for those issues not addressed by the department of labor, the appellant may request an administrative appeal as described in paragraph (J)(2) of this rule.
  - (2) Requesting an administrative appeal.
    - (a) The appellant may request an administrative appeal if the appellant disagrees with the outcome of the state hearing decision and the state hearing decision identifies the service as being funded under TANF.
    - (b) An administrative appeal may also be requested:
      - (i) If the appellant disagrees with:
        - (a) A denial of a state hearing request; or
        - (b) The denial of a good cause exception; or
      - (ii) For any issues appealed to the department of labor, which the department of labor declined to address.
    - (c) The appellant shall have fifteen calendar days from the mailing date of any decision described in paragraph (J)(2)(a) or (J)(2)(b) of this rule to request an administrative appeal. The administrative appeal must be in writing. The appellant may withdraw the

administrative appeal request at any time prior to an administrative appeal decision being issued.

- (d) The administrative appeal process is outlined in rule 5101:6-8-01 of the Administrative Code. However, the administrative appeal decision must be issued within the federal timeliness period for CCMEP administrative appeals.
- (e) When an administrative appeal examiner issues an administrative appeal decision ordering compliance, the local agency shall have fifteen calendar days or the federal timeliness period, whichever is less, to comply with the order. Compliance is achieved upon review and approval of the compliance documentation demonstrating the administrative appeal examiner's recommendations have been followed by the local agency.

(K) A missed deadline by either the local agency or the bureau of state hearings does not preclude an appellant who was referred for or received services funded under WIOA from making a complaint to the department of labor pursuant to Section 181(c) of WIOA.

(L) An appellant who was referred for or received services funded under TANF and disagrees with the administrative appeal decision may pursue further appeal rights, as described in rule 5101:6-9-01 of the Administrative Code.

(M) Local agency responsibilities. The CCMEP local agency shall do all of the following:

- (1) Provide the individual notice of his or her CCMEP hearing rights, and issue any required notices to the individual.
- (2) Assist the individual, at the individual's request, in drafting and filing the initial complaint, as described in paragraph (D)(3) of this rule, and provide the appellant the opportunity to first utilize the informal conference and local hearing to address CCMEP issues, as described in paragraphs (D)(3)(a) and (D)(3)(b) of this rule.
- (3) Assist the individual, at the individual's request, in initiating a state hearing request, when the individual receives services under paragraph (D)(2) of this rule.
- (4) Utilize the CCMEP rules outlined in Chapter 5101:14-1 of the Administrative Code to address CCMEP complaints and hearings. If the issue cannot be resolved using rules found in Chapter 5101:14-1 of the Administrative Code, the local agency may utilize the CCMEP program plan submitted in accordance with Chapter 5101:14-1 of the Administrative Code.
- (5) Submit an electronic state hearing request to the bureau of state hearings via the state hearings electronic hearings and appeals tracking system within twenty-four hours of receipt of the state hearing request.
- (6) Prepare an appeal summary and, upon request, make it available to the appellant at least three business days in advance of the scheduled state hearing. In addition, the local agency shall submit the appeal summary to the bureau of state hearings via the electronic hearings and appeals tracking system at least three business days in advance of the scheduled hearing.
- (7) Follow through with the hearing authority's final administrative decision and order, including compliance and due dates, as instructed in the state hearing decision. Compliance with the state hearing decision is required even if a second level appeal is filed under paragraph (J)(1) of this rule.

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**SHMTL 38**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) Chapter 5101:6-20 of the Administrative Code governs disqualification for intentional program violation in the Ohio works first (OWF), prevention, retention and contingency (PRC) and ~~food assistance~~ supplemental nutrition assistance program (SNAP) programs.
- (B) An individual may be disqualified from the OWF, PRC and/or ~~food assistance~~ SNAP programs for an intentional program violation based on one of the following.
- (1) A finding by a court that the individual has committed a criminal offense connected to violation of the OWF and/or PRC program, and/or ~~food assistance~~ SNAP requirements.
  - (2) A disqualification consent agreement, signed by the individual, in accordance with rule 5101:6-20-40 of the Administrative Code.
  - (3) An administrative disqualification hearing decision that finds that the individual has committed an intentional program violation.
  - (4) A waiver of the right to an administrative disqualification hearing, signed by the individual, in accordance with rule 5101:6-20-30 of the Administrative Code.
- (C) The local agency is responsible for investigating any case alleging an intentional program violation, regardless of the suspected individual's current eligibility status, and for ensuring that appropriate cases are acted upon either through administrative disqualification procedures or referral for prosecution.
- (D) Local agencies are encouraged to refer for prosecution those individuals suspected of committing an intentional program violation, particularly if the value of benefits involved is large or if the individual is suspected of committing more than one act of intentional program violation.
- (1) The local agency shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution.
  - (2) Local agencies shall also encourage local prosecutors to recommend to the courts that a disqualification penalty, as provided for by rule 5101:6-20-03 of the Administrative Code, be imposed in addition to any other civil or criminal penalties for such violations.
- (E) Administrative disqualification procedures ~~should~~ shall be initiated in the following situations:
- (1) The local agency believes the facts of the case do not warrant civil or criminal prosecution.
  - (2) The facts of the case were previously referred for prosecution but were declined by the appropriate legal authority.
  - (3) No action was taken on a previously referred case within a reasonable time and the referral was formally withdrawn by the local agency.
- (F) The local agency shall not initiate administrative disqualification procedures against an individual currently being referred for prosecution or subsequent to any action taken against the individual by the prosecutor or the court, if the factual issues of the case arise out of the same, or related, circumstances.
- (1) Such action by the court shall include receiving a complaint of an intentional program violation.
  - (2) Such action by the prosecutor shall include the filing of a complaint in court or presentation of the case to a grand jury, regardless of whether the grand jury returns an indictment.
  - (3) The prosecutor's independent review and investigation of a referred case shall not, by itself, constitute such action.

- (G) The local agency shall not initiate administrative disqualification procedures against an accused individual when a previous administrative disqualification hearing on the same, or related, circumstances was decided in the accused individual's favor.
- (H) In proceeding against an individual, the local agency shall coordinate any corresponding actions taken under the OWF, PRC and ~~food assistance~~ SNAP programs where the factual issues arise from the same or related circumstances.

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**SHMTL 38**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) In the Ohio works first (OWF) program, an intentional program violation shall consist of any action by an individual, for the purpose of establishing or maintaining the family's eligibility for OWF or for increasing or preventing a reduction in the amount of the monthly OWF grant that is intentionally:
- (1) A false or misleading statement or misrepresentation, concealment, or withholding of facts; or
  - (2) Any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
- (B) In the supplemental nutrition assistance program (SNAP)~~food assistance program~~, an intentional program violation shall consist of an action by an individual, for the purpose of using, presenting, transferring, acquiring, receiving, or possessing ~~food assistance~~SNAP benefits that is intentionally:
- (1) A false or misleading statement, or a misrepresentation, concealment or withholding of facts; or
  - (2) Any act that constitutes a violation of the Food Stamp Act (as in effect on ~~February 28, 2014~~October 1, 2018), the ~~food assistance program~~SNAP regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possessing or trafficking of ~~food assistance~~SNAP benefits, or the electronic benefit transfer (EBT) card.
- (C) In the prevention, retention and contingency (PRC) program, an intentional program violation shall consist of an action by an individual, for the purpose of establishing eligibility for PRC benefits that is intentionally:
- (1) A false or misleading statement or misrepresentation, concealment, or withholding of facts; or
  - (2) Any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

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SHMTL 38

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(A) Under the provisions of rule 5101:6-20-01 of the Administrative Code, individuals who have been found to have committed an intentional program violation (IPV) either through an administrative disqualification hearing, a federal, state, or local court, or who have signed either a waiver of right to an administrative disqualification hearing, or a disqualification consent agreement in cases referred for prosecution shall be ineligible for the following periods:

- (1) Disqualified from Ohio works first (OWF) or prevention, retention and contingency (PRC) until the cost of the fraudulent assistance is repaid in full.
- (2) Disqualified from the ~~food assistance~~ supplemental nutrition assistance program (SNAP) for twelve months for the first violation except as provided in paragraphs (A)(5) to (A)(8) of this rule.
- (3) Disqualified from ~~the food assistance program~~ SNAP for twenty-four months for the second violation except as provided in paragraphs (A)(5) to (A)(8) of this rule.
- (4) Disqualified from ~~the food assistance program~~ SNAP permanently for the third violation except as provided in paragraphs (A)(5) to (A)(8) of this rule.

- (5) Court conviction: controlled substance violation

Individuals found by a federal, state, or local court to have used or received ~~food assistance~~ SNAP benefits in a transaction involving the sale of a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802 (as in effect on ~~February 28, 2014~~ October 1, 2018)) shall be ineligible to participate in the program for a period of twenty-four months upon the first occasion of such a violation and permanently upon the second occasion of such a violation.

- (6) Trafficking ~~food assistance~~ SNAP benefits of five hundred dollars or more

An individual shall be permanently disqualified if he/she is convicted by a federal, state, or local court of trafficking ~~food assistance~~ SNAP benefits for an aggregate amount of five hundred dollars or more.

For purposes of this rule, "trafficking" is defined as fraudulently using, transferring, altering, acquiring or possessing ~~food assistance~~ SNAP benefits or presenting ~~food assistance~~ SNAP benefits for payment or redemption knowing the same to have been fraudulently obtained or transferred for cash or consideration other than eligible food. "Acquiring ~~food assistance~~ SNAP benefits" does not include providing false information as part of the certification, reapplication, or reporting changes processes.

- (7) Court conviction: firearms, ammunition, or explosives violation

Individuals found by a federal, state, or local court to have used or received ~~food assistance~~ SNAP benefits in a transaction involving the sale of firearms, ammunition, or explosives shall be permanently ineligible to participate in the program upon the first occasion of such violation.

- (8) Receipt of multiple benefits simultaneously

An individual shall be ineligible to participate in ~~the food assistance program~~ SNAP for a ten-year period if the individual is found, through an administrative disqualification hearing, a federal, state, or local court, or who has signed either a waiver of right to administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, of having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under ~~the food assistance program~~ SNAP.

- (B) The same act of an intentional program violation repeated over a period of time shall not be separated so that separate penalties can be imposed.
- (C) For ~~food assistance~~SNAP, only the individual found to have committed an intentional program violation shall be disqualified, and not the entire assistance group, but for PRC and OWF assistance groups determined to have received fraudulent assistance, all individuals who were members of the assistance group at the time of receipt of the fraudulent assistance shall be disqualified.
- (D) During the disqualification period, the disqualified individual's needs shall not be taken into account in determining the assistance group's eligibility or amount of assistance; however, all income and resources of the disqualified individual shall be considered available to the assistance group.
- (E) The disqualification period shall begin as specified in rule 5101:6-20-17, 5101:6-20-30, 5101:6-20-40, or 5101:6-20-50 of the Administrative Code, as applicable, regardless of whether the individual is eligible for the program at that time.
- (F) Once a disqualification penalty has been imposed against a currently eligible individual, it shall continue uninterrupted until complete regardless of the eligibility of the disqualified individual's assistance group.
- (G) Any period for which a disqualification penalty is imposed shall remain in effect, without possibility of an administrative stay, unless and until the finding upon which the penalty was based is reversed by a court of appropriate jurisdiction.
- (H) The disqualified individual and each person who was an adult member of the disqualified individual's assistance group, if any, shall continue to be responsible for repayment of the overpayment/overissuance which resulted from the individual's intentional program violation, regardless of their current eligibility for program benefits.
- (I) The disqualification of an individual for an intentional program violation in one county or state is valid in another county or state.

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**SHMTL 38**

***Effective Date: March 1, 2019***

***Most Current Prior Effective Date: February 28, 2014***

- (A) The local agency shall inform the assistance group in writing of the disqualification penalties for an intentional program violation each time the assistance group files an application for program benefits.
- (B) Disqualification penalties shall be in clear, prominent, and bold-face lettering on the JFS 07200s "Request for Cash, Food, and Medical Assistance" (rev. 10/2016~~12/2012~~) and the JFS 07501s "Program Enrollment & Benefit Information" (rev. 4/2018~~11/2013~~), or their **electronic**computer-generated equivalents.

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**SHMTL 38**

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***Most Current Prior Effective Date: February 28, 2014***

- (A) To initiate an administrative disqualification hearing, the local agency shall complete and submit a JFS 04060 "Referral for Administrative Disqualification Hearing" (rev. 1/2015 ~~5/2004~~) or its computer-generated equivalent, to the bureau of state hearings.
- (B) The JFS 04060 shall be accompanied by all information and documentation relied upon by the local agency in reaching its conclusion that an intentional program violation has been committed.
- (C) If more than one assistance group member is suspected of committing an intentional program violation, a separate JFS 04060 shall be completed for each.
- (D) If an individual is suspected of an intentional program violation in more than one program, a separate JFS 04060 shall be completed for each.

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**SHMTL 38**

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**Most Current Prior Effective Date: February 28, 2014**

- (A) An individual's state hearing, in accordance with Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, and an administrative disqualification hearing may be combined into a single hearing if the factual issues arise out of the same or related circumstances.
- (B) If the hearings are to be combined, the accused individual shall be given notice of that fact at the time the hearing is scheduled.
- (C) The assistance group may waive the thirty-day advance notice period required by rule 5101:6-20-12 of the Administrative Code when a state hearing and a disqualification hearing are combined.
- (D) If the hearings are combined to decide the amount of the overpayment/overissuance and whether an intentional program violation was committed, the assistance group shall lose its right to a subsequent state hearing on the amount of the overpayment/overissuance.
- (E) If the state hearing and the administrative disqualification hearing are combined, the time frames for conducting disqualification hearings shall apply.
- (F) When an administrative disqualification hearing is combined with a state hearing, separate decisions shall be issued for the administrative disqualification and state hearing issues, using the JFS 04007 "Administrative Disqualification Hearing Decision" (rev. 1/2015~~9/1994~~), and the JFS 04005 "State Hearing Decision" (rev. 1/2015 ~~3/2003~~) or their computer-generated equivalents, respectively. The JFS 04005 and JFS 04007 forms are both generated in the hearings and appeals tracking system (HATS X).

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**SHMTL 38**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) The bureau of state hearings shall provide written notice to the accused individual at least thirty days prior to the hearing date, unless the thirty-day advance notice period has been waived under the provisions of rule 5101:6-20-11 of the Administrative Code.
- (B) The notice shall be provided by one of the following methods:
- (1) Certified mail - return receipt requested.  
Notice provided by this method shall be mailed certified mail - return receipt requested.
  - (2) Personal service.  
Notice provided by this method shall be hand-delivered, to the accused individual, by a person designated to do so by the Ohio department of job and family services (ODJFS) or by the local agency.  
The person so designated shall record the date and location of delivery and the person to whom notice was delivered and maintain the information in the case file. The personal service record shall be made a part of the hearing record. Failure to make delivery shall be similarly recorded.
  - (3) Residence service.  
Notice provided by this method shall be hand-delivered, to some person of suitable age and discretion residing at the accused individual's current place of residence, by a person designated to do so by (ODJFS) or by the local agency.  
The person so designated shall record the date and location of delivery and the person to whom notice was delivered and maintain the information in the case file. The residence service record shall be made a part of the hearing record. Failure to make delivery shall be similarly recorded.
- (C) In addition to delivery by one of the methods described in paragraph (B) of this rule, notice shall simultaneously be sent by ordinary mail.
- (D) The notice shall be accompanied by the JFS 04058 "Explanation of Administrative Disqualification Hearing Procedures" (rev. ~~5/2002~~1/2015) and by the JFS 04026 "Waiver of Administrative Disqualification Hearing" (rev. 1/2015~~5/2004~~) or their computer-generated equivalents.
- (E) The notice, in conjunction with the JFS 04058, shall include the following:
- (1) The date, time, and place of the hearing.
  - (2) A statement of the charges against the individual.
  - (3) A summary of the evidence, and how and where the evidence can be examined.
  - (4) A statement of the individual's right to request a postponement of the hearing.
  - (5) A warning that the decision will be based solely on the information provided by the local agency if the individual or authorized representative fails, without good cause, to appear at the hearing.
  - (6) A statement that the individual or representative shall have ten days from the date of the hearing to contact the hearings section and present good cause for failure to appear in order to receive a new hearing.
  - (7) A description of the penalties that can result from a determination that the individual has committed an intentional program violation, and a statement of which penalty is applicable to the individual.
  - (8) A statement that the hearing does not preclude collection of the overpayment/overissuance.

- (9) An explanation that the individual may waive the right to an administrative disqualification hearing, under the provisions of rule 5101:6-20-30 of the Administrative Code.
  - (10) 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.
  - (11) A statement that the individual may obtain a copy of the department's published hearing rules from the local agency upon request.
  - (12) A telephone number to call about free legal services.
- (F) In all cases, the JFS 04061 "Notice ~~of~~ to Appear for an Administrative Disqualification Hearing" (rev. 1/2015~~6/2004~~) or its computer-generated equivalent, shall be used. The JFS 04061 is generated in the hearings and appeals tracking system (HATS X).

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**SHMTL 35**

***Effective Date: February 28, 2014 (No Change)***

***Most Current Prior Effective Date: February 28, 2014***

- (A) A pending administrative disqualification hearing shall not affect the right of either the accused individual or the assistance group to apply for program benefits and to receive them if otherwise eligible.
- (B) A pending administrative disqualification hearing shall not prevent the local agency from taking appropriate action to deny, reduce or terminate assistance for other reasons.
- (C) The local agency is responsible for processing the application and issuing proper notice pursuant to rules 5101:6-2-02 and 5101:6-2-03 of the Administrative Code.

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**SHMTL 38**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) If the accused individual or authorized representative fails, without good cause, to appear at the hearing, the hearing shall still be conducted, without the individual being represented, if:
- (1) The bureau of state hearings ~~section~~ has proof of either receipt or refusal to accept delivery of the advance notice of the administrative disqualification hearing provided as required by paragraph (B) of rule 5101:6-20-12 of the Administrative Code, or
  - (2) Certified mail delivery of the advance notice of the administrative disqualification hearing, as described in rule 5101:6-20-12 of the Administrative Code, is returned unclaimed and the ordinary mailing of the advance notice, required by rule 5101:6-20-12 of the Administrative Code, does not return undelivered.
- (B) Even though the individual is not represented, the hearing officer shall consider the evidence carefully and determine, based on clear and convincing evidence, whether an intentional program violation was committed.
- (C) When good cause for failure to appear is based upon non-receipt of the advance notice of the hearing required by rule 5101:6-20-12 of the Administrative Code, the individual or authorized representative shall have thirty days from the date of the hearing decision to contact the hearing authority and present good cause for failing to attend.
- In all other instances, the individual or authorized representative shall have ten days from the date of the hearing to contact the hearing authority and present good cause for failing to attend.
- The hearing officer shall enter the good cause determination into the hearing record.
- (D) When the hearing ~~decision~~officer finds that an intentional program violation was committed but good cause for failure to appear is subsequently shown, the hearing decision shall be vacated and a new hearing scheduled.
- (1) In this instance, the bureau of state hearings ~~section~~ shall immediately notify the local agency and order discontinuation of the disqualification and reinstatement of assistance if otherwise appropriate.
  - (2) The new hearing shall be scheduled in accordance with rule 5101:6-20-12 of the Administrative Code.
  - (3) The original hearing officer may conduct the new hearing.

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**SHMTL 38**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) The following provisions apply to the administrative disqualification hearing process:
- (1) The accused individual and authorized representative shall be provided access to documents and regulations in accordance with rule 5101:6-5-01 of the Administrative Code.
  - (2) The accused individual, ~~and~~the authorized representative and the local agency have the right to request the issuance of subpoenas in accordance with rule 5101:6-5-01 of the Administrative Code.
  - (3) The local agency may provide transportation to the accused individual in accordance with rule 5101:6-5-01 of the Administrative Code.
  - (4) The time and place of the administrative disqualification hearing shall be in accordance with rule 5101:6-6-01 of the Administrative Code.
  - (5) The accused individual is entitled to one postponement of the scheduled hearing.
    - (a) The request for postponement ~~must~~shall be received by the bureau of state hearings section at least ten ~~calendar~~ days prior to the date of the scheduled hearing.
    - (b) The hearing shall not be postponed for more than thirty days.
- (B) The following provisions apply to the conduct of the administrative disqualification hearing:
- (1) The accused individual and the local agency have the right to be represented by legal counsel in accordance with rule 5101:6-5-01 of the Administrative Code.
  - (2) The administrative disqualification hearing shall be conducted informally, in accordance with rule 5101:6-6-02 of the Administrative Code.
  - (3) Attendance at the administrative disqualification hearing shall be limited, in accordance with rule 5101:6-6-01 of the Administrative Code.
  - (4) Administrative disqualification hearings shall be recorded in accordance with rule 5101:6-6-03 of the Administrative Code.
  - (5) The role of the agency representative at the administrative disqualification hearing shall be as described in rule 5101:6-6-02 of the Administrative Code.
  - (6) The accused individual and/or authorized representative shall have the rights described in rule 5101:6-6-02 of the Administrative Code.
  - (7) The role of the hearing officer at the administrative disqualification hearing shall be as described in paragraph (C) of rule 5101:6-6-02 of the Administrative Code, except that paragraphs (C)(14) and (C)(15) of rule 5101:6-6-02 of the Administrative Code do not apply.
  - (8) At the hearing, the hearing officer shall advise the accused individual and representative that they may refuse to answer questions during the hearing.
  - (9) Once the administrative disqualification hearing has begun, the accused individual may no longer waive the right to a hearing. If the local agency or the bureau of state hearings has not received a signed JFS 04026 "Waiver of Administrative Disqualification Hearing" (rev. ~~1/2015~~ ~~5/2004~~) or its computer-generated equivalent, prior to the time of the scheduled hearing, the hearing officer shall proceed with the hearing and render a written decision.

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SHMTL 38

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) ~~State~~The bureau of state hearings is responsible for preparing and issuing administrative disqualification hearing decisions under the authority of the director of the Ohio department of job and family services (ODJFS). ~~State~~The bureau of state hearings shall designate hearing authorities to review the findings, conclusions, and recommendations of the hearing officers and to issue decisions under the authority of the ODJFS director.
- (1) No person designated as the hearing authority shall have previously participated in the local agency decision being appealed, nor shall the hearing authority and the hearing officer who conducted the hearing be the same person.
  - (2) Administrative disqualification hearing decisions shall be issued within ninety days of the mailing date of the JFS 04061 "Notice ~~of~~to Appear for an Administrative Disqualification Hearing" (rev. 1/2015 ~~6/2004~~) or its computer-generated equivalent. The JFS 04061 form is generated in the hearings and appeals tracking system (HATS X).
  - (3) If the hearing was postponed, under the provisions of rule 5101:6-20-15 of the Administrative Code, the ninety-day time limit shall be extended by as many days as the hearing was postponed.
- (B) The hearing officer's findings of fact shall be based exclusively on the evidence introduced at the hearing, or, if the accused individual was represented at the hearing, after the hearing and subject to examination and rebuttal by both parties as described in rule 5101:6-6-02 of the Administrative Code.
- (1) The hearing officer may be guided, but shall not be bound, by the Ohio Rules of Evidence (as in effect on ~~February 28, 2014~~October 1, 2018) in conducting hearings and in making findings of fact. The hearing officer shall consider all relevant evidence offered at the hearing.
  - (2) Hearsay evidence may be considered by the hearing officer in arriving at the findings of fact. However, such evidence ~~must~~shall 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.
  - (3) 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.
  - (4) It shall be the responsibility of the local agency to show, by clear and convincing evidence, that the accused individual committed an intentional program violation.
  - (5) 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 paragraph (B) of this rule.
  - (6) The scope of the remand shall be limited to those additional facts which the hearing authority deems necessary. The remand shall not be the occasion for a new determination of any of the facts already established.
- (C) The hearing officer's conclusions of policy and recommendations shall be based solely on rules of the Administrative Code, except when these regulations are silent and reference to the Revised Code or other statutory source is necessary to resolve the issue.
- (1) 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.
  - (2) The hearing authority shall amend conclusions and recommendations that do not correctly apply the appropriate regulations, clearly explaining the reason and basis of any such amendment.

- (D) The administrative disqualification hearing decision shall be limited to determining whether the accused individual committed an intentional program violation and whether the sanction period being proposed is appropriate.
- (E) The administrative disqualification hearing decision shall separately set forth the issue, the hearing officer's findings of fact, conclusions of policy and recommendations, and the decision and order.
- (1) The issue section shall include the programs for which administrative disqualification is proposed, the length of the proposed disqualification period, and a brief statement of the alleged activity upon which the local agency has based its proposal. When disqualification in multiple programs has been proposed, they shall be stated separately in the issue statement, and treated separately in the remainder of the decision.
  - (2) When the disqualification hearing has been combined with a state hearing, the state hearing issues shall be decided in a separate state hearing decision, not in the administrative disqualification hearing decision. Both decisions shall be issued at the same time.
  - (3) Procedural matters, such as delays due to postponement or amendments to the issue, shall be followed by a clear and orderly chronological discussion of the facts and events relevant to the issue. Findings of fact 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 the conflicting evidence in arriving at the decision.
  - (4) 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.
  - (5) The hearing officer's recommendations shall address each program for which administrative disqualification is proposed and shall state whether or not the accused individual is found to have committed an intentional program violation. When the hearing officer recommends that the accused individual be disqualified, the hearing officer shall state the length of the disqualification period to be imposed.
  - (6) When disqualification is ordered, compliance shall be required, via the JFS 04068 "State Hearing Order of Compliance" (rev. 1/2015-5/2001) or its computer-generated equivalent.
  - (7) The decision and order, signed by the hearing authority, shall indicate adoption or amendment of the hearing officer's recommendations and whether the accused individual is found to have committed an intentional program violation. If the accused individual is to be disqualified, it shall state the program(s) for which disqualification shall be implemented and the length of the disqualification period to be imposed.
- (F) The individual and authorized representative shall be provided with a written administrative disqualification hearing decision via the JFS 04007 "Administrative Disqualification Hearing Decision" (rev. 1/2015 9/1994) or its computer-generated equivalent. The JFS 04007 form is generated in the hearings and appeals tracking system (HATS X). A copy of the decision shall be sent to the local agency.

When the disqualification hearing is combined with a state hearing, a separate decision shall be issued for the state hearing issue(s) in accordance with rule 5101:6-7-01 of the Administrative Code, using the JFS 04005 "State Hearing Decision" (rev. 1/2015 3/2003) or its computer-generated equivalent. The JFS 04005 form is generated in the hearings and appeals tracking system (HATS X).

- (G) The administrative disqualification 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 maintained by the bureau of state hearings in accordance with applicable record retention requirements and made available for review by the individual and authorized representative.

- (H) **State** The bureau of state hearings shall maintain a library of all administrative disqualification hearing decisions. The decisions shall be available for public inspection and copying, subject to applicable disclosure safeguards.
- (I) Administrative disqualification hearing decisions shall be binding on the local agency for the individual case for which the decision was rendered.

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**SHMTL 38**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

(A) Disqualification

- (1) When the hearing decision finds that the accused individual has committed an intentional program violation, he or she shall be disqualified in accordance with rule 5101:6-20-03 of the Administrative Code.
- (2) Prior to implementing the disqualification, the local agency shall provide the individual at the JFS 04062 "Notice of Disqualification for Intentional Program Violation" (rev. 1/20155/2001) or its computer-generated equivalent, in accordance with rule 5101:6-20-18 of the Administrative Code.
- (3) The disqualification period shall be implemented as follows:
  - (a) For Ohio works first (OWF) and prevention, retention and contingency (PRC), the period shall begin no later than the first day of the second month following the date the JFS 04062 is mailed.
  - (b) For ~~food assistance~~ supplemental nutrition assistance program (SNAP), the period shall begin with the first month which follows the date the JFS 04062 is mailed.

(B) Compliance

- (1) The local agency is responsible for promptly and fully implementing adverse administrative disqualification hearing decisions. ~~State~~ The bureau of state hearings is responsible for monitoring timely compliance.
- (2) When an administrative disqualification hearing decision finds an intentional program violation, the "compliance required" box on the decision form shall be checked, and a JFS 04068 "~~State Hearing~~ Order of Compliance" (rev. 1/20155/2001) or its computer-generated equivalent, shall be sent to the local agency with the decision.
- (3) After implementing the disqualification, the local agency shall promptly notify the bureau of state hearings of the action taken, using the JFS 04068.
- (4) Compliance shall be considered achieved on the date the disqualification is reflected in the assistance group's benefits.
- (5) If the individual is not eligible for the program at the time the disqualification period is to begin, the local agency shall report that fact on the JFS 04068 and compliance shall be considered achieved.

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**SHMTL 38**

**Effective Date: March 1, 2019**

**Most Current Prior Effective Date: February 28, 2014**

- (A) The local agency shall provide an individual found to have committed an intentional program violation a written notice of disqualification.
- (1) If more than one member of an assistance group is to be disqualified, a separate disqualification notice shall be provided to each individual.
  - (2) A copy of the disqualification notice shall also be sent to the bureau of state hearings and to the appropriate fraud control specialist.
- (B) The notice shall be mailed or personally delivered no later than five ~~workdays~~ business days after the local agency's receipt of the administrative disqualification hearing decision, court decision, waiver or consent agreement upon which disqualification is to be based.
- (C) The notice shall include the following:
- (1) The name of the individual to be disqualified.
  - (2) The program(s) from which the individual is to be disqualified.
  - (3) The basis for the disqualification.
  - (4) The effective date and period of disqualification.
  - (5) A statement that the disqualification period will begin at once, regardless of whether the individual is currently receiving benefits.
  - (6) Notice to the remaining assistance group members, if any, of the benefits they will receive during the disqualification period.
- In the ~~food assistance~~ supplemental nutrition assistance program (SNAP), the notice may alternatively inform the remaining assistance group members that they ~~must~~ shall reapply because the certification period has expired.
- (D) The disqualification notice shall be accompanied by a JFS 07442 "Food Assistance Repayment Agreement" (rev. 11/2008), or ~~the~~ its computer-generated equivalent, unless that form has already been provided.
- (E) In all instances, the JFS 04062 "Notice of Disqualification for Intentional Program Violation" (rev. 1/2015 ~~5/2004~~) or its computer-generated equivalent, shall be used.

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**SHMTL 35**

***Effective Date: February 28, 2014 (No Change)***

***Most Current Prior Effective Date: February 28, 2014***

- (A) No further administrative appeal procedures exist after an adverse administrative disqualification hearing decision or after the individual waives the right to an administrative disqualification hearing and a disqualification penalty has been imposed.
- (B) The disqualification penalty cannot be changed by a subsequent state hearing decision.
- (C) Individuals who disagree with an administrative disqualification hearing decision have the right to appeal that decision to the court of common pleas, in accordance with rule 5101:6-9-01 of the Administrative Code.
- (D) If the determination of intentional program violation is reversed by a court, the local agency shall reinstate the individual in the program(s) from which he or she was disqualified, if otherwise eligible, and shall restore benefits that were lost as a result of disqualification. Compliance with these decisions shall be monitored by the bureau of state hearings.

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SHMTL 38

**Effective Date: March 1, 2019**

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- (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 the Ohio department of job and family services (ODJFS) 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 ODJFS.
- (2) ~~State~~The bureau of state hearings shall also provide the notice along with the advance notice of the administrative disqualification hearing.
- (B) The notice shall be accompanied by the JFS 04058 "Explanation of Administrative Disqualification Hearing Procedures" (rev. 1/2015~~5/2002~~) or its computer-generated equivalent.
- (C) The waiver notice, in conjunction with the JFS 04058, 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 an 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~~shall be received by the local agency to prevent initiation of the referral.
- (5) A statement that the head of the assistance group ~~must~~shall 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~~shall 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 collection of the fraudulent overpayment/overissuance.
- (10) For ~~food assistance~~supplemental nutrition assistance program (SNAP), each person who was an adult member of the assistance group when the overpayment or trafficking occurred is 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 JFS 04026 "Waiver of Administrative Disqualification Hearing" (rev. 1/2015~~5/2004~~) or its computer-generated equivalent, shall be used.
- (E) To waive the disqualification hearing, the accused individual ~~must~~shall sign and return the waiver so that it is received by the local agency or by the bureau of state hearings prior to the disqualification hearing.
- (F) When the individual suspected of an intentional program violation signs and returns the JFS 04026 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 JFS 04026 shall be filed in the individual's case record.
- (G) Prior to implementing the disqualification, the local agency shall provide the individual a JFS 04062 ""Notice of Disqualification for Intentional Program Violation" (rev. 1/2015~~5/2004~~) or its computer-generated equivalent, in accordance with rule 5101:6-20-18 of the Administrative Code.
- (H) The disqualification period shall be implemented as follows:
- (1) For Ohio works first (OWF) and prevention, retention and contingency (PRC), the period shall begin no later than the first day of the second month following the date the JFS 04062 is mailed.
  - (2) For ~~food assistance~~SNAP, the period shall begin with the first month which follows the date the JFS 04062 is mailed.

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**SHMTL 38**

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- (A) The local agency has the option of establishing procedures to allow an individual suspected of an intentional program violation to sign a disqualification consent agreement. Local agencies are encouraged to use this option for those cases in which a determination of guilt is not obtained from a court because:
- (1) The accused individual has met the terms of a court order.
  - (2) The accused individual was not prosecuted because he or she met the terms of an agreement with the prosecutor.
- (B) Those counties that choose ~~this~~ the option identified in paragraph (A) of this rule shall enter into an agreement with the county prosecutor that provides for giving the individual advance written notification of the consequences of signing a disqualification consent agreement.
- (C) The disqualification consent agreement shall include the following:
- (1) For individuals accused of committing an intentional program violation in the Ohio works first (OWF) and prevention, retention and contingency (PRC) programs, a statement that signing the agreement constitutes an admission of guilt.
  - (2) A statement for the accused individual to sign indicating that he or she understands the consequences of signing the agreement.
  - (3) A statement that the head of the assistance group ~~must~~ shall also sign the agreement if the accused individual is not the head of the assistance group.
  - (4) A statement that signing the agreement ~~will~~ shall result in disqualification and a reduction in benefits for the period of disqualification, even though the individual was not found guilty of civil or criminal misrepresentation or fraud.
  - (5) A description of the penalties for an intentional program violation, and a statement of which penalty or penalties ~~will~~ shall be imposed if the individual signs the agreement.
  - (6) For ~~food assistance~~ supplemental nutrition assistance program (SNAP), each person who was an adult member of the assistance group when the overpayment or trafficking occurred is responsible for repayment of the overpayment/overissuance.
- (D) In the OWF and PRC programs, the disqualification consent agreement ~~must~~ shall be confirmed by the court.
- (E) The local agency may use the JFS 04027 "Disqualification Consent Agreement" (rev. 1/2015~~5/2002~~) or a similar, county-developed form which meets the requirements of this rule.
- (F) When signed, a copy of the disqualification consent agreement shall be given to the individual, a copy provided to the local agency to be filed in the individual's case record, and a copy sent to the bureau of state hearings.
- (G) When the individual suspected of an intentional program violation signs a disqualification consent agreement, he or she shall be disqualified in accordance with rule 5101:6-20-03 of the Administrative Code, unless contrary to the court order.
- (H) Prior to implementing the disqualification, the local agency shall provide the individual a JFS 04062 "Notice of Disqualification for Intentional Program Violation" (rev. 1/2015~~5/2004~~) or its computer-generated equivalent, in accordance with rule 5101:6-20-18 of the Administrative Code.
- (I) The disqualification period shall be implemented as follows:

- (1) For OWF and PRC, the period shall begin no later than the first day of the second month following the date the JFS 04062 is mailed.
- (2) For ~~food assistance~~SNAP, the period shall begin within forty-five days of the date the individual signed the disqualification consent agreement.
- (3) If the court imposes a disqualification period or specifies the date for initiating the disqualification period, the ~~county~~local agency shall disqualify the individual in accordance with the court order.

Effective: 3/1/2019

Five Year Review (FYR) Dates: 11/27/2018 and 03/01/2024

Certification: CERTIFIED ELECTRONICALLY

Date: 02/05/2019

Promulgated Under: 119.03

Statutory Authority: 5101.35

Rule Amplifies: 5101.35

Prior Effective Dates: 08/01/1983, 05/01/1985, 09/01/1994, 05/19/1999, 06/01/2003, 09/01/2008, 02/28/2014

**5101:6-20-50 State Hearings: Disqualification from the Supplemental Nutrition Assistance Program (SNAP) Based On Court Action**

**SHMTL 38**

***Effective Date: March 1, 2019***

***Most Current Prior Effective Date: February 28, 2014***

- (A) If a court finds that an individual committed an intentional program violation, the local agency shall disqualify the individual in accordance with the court order.
- (B) Prior to implementing the disqualification, the local agency shall provide the individual a JFS 04062 "Notice of Disqualification for Intentional Program Violation" (rev. 1/2015~~5/2004~~) or its computer-generated equivalent, in accordance with rule 5101:6-20-18 of the Administrative Code.
- (C) If the court fails to impose a disqualification or a disqualification period, the local agency shall impose a disqualification period, in accordance with rule 5101:6-20-03 of the Administrative Code, unless contrary to the court order.
- (D) If the court orders disqualification but fails to specify a date for initiating the disqualification period, the period shall begin within forty-five days of the date of the court order.

Effective: 3/1/2019

Five Year Review (FYR) Dates: 11/27/2018 and 03/01/2024

Certification: CERTIFIED ELECTRONICALLY

Date: 02/05/2019

Promulgated Under: 119.03

Statutory Authority: 5101.35

Rule Amplifies: 5101.35

Prior Effective Dates: 06/20/1980, 10/01/1981, 05/01/1982, 08/01/1983, 04/01/1984 (Temp.), 06/01/1984, 09/01/1994, 06/01/1996, 05/15/1999, 04/01/2000, 06/01/2003, 09/01/2008, 02/28/2014



# State Hearings Manual Appendix



## **Notices of Dismissal**

[Click here to view the Notices of Dismissal](#)

## **State Hearing Scheduling Notice**

**[Click here to view the State Hearing Scheduling Notice](#)**

**JFS 01704 Notice of Proposed Enrollment in the Coordinated Services Program (CSP) by ODJFS or by Your Managed Care Plan (MCP)**

**[Click here to view the JFS 01704](#)**

**JFS 01705 Notice of Continued Enrollment in the Coordinated Services (CSP) by ODJFS or by Your Managed Care Plan (MCP)**

**[Click here to view the JFS 01705](#)**

**JFS 01706 Notice of Denial of Designated Provider or Pharmacy Change in the Coordinated Services (Program) by ODJFS or by your Managed Care Plan (MCP)**

**[Click here to view the JFS 01706](#)**

**JFS 01711 Notice of Denial of Your Request to Terminate Membership in Your Managed Care Plan for "Just Cause"**

**[Click here to view the JFS 01711](#)**

**JFS 04002 Notice to Appear for Scheduled Hearing**

**[Click here to view the JFS 04002, Notice to Appear for Scheduled Hearing](#)**

## **JFS 04003 Administrative Appeal Request**

**[Click here to view the JFS 04003, Administrative Appeal Request](#)**



**JFS 04004 State Hearing Request Denial Notice**

**[Click here to view the JFS 04004, State Hearing Request Denial Notice](#)**

**JFS 04005 State Hearing Decision**

**[Click here to view the JFS 04005, State Hearing Decision](#)**

**JFS 04006 Subpoena Notice to Appear**

**[Click here to view the JFS 04006, Subpoena Notice to Appear](#)**

**JFS 04007 Administrative Disqualification Hearing Decision**

**[Click here to view the JFS 04007, Administrative Disqualification Hearing Decision](#)**

**JFS 04010 Insufficient Good Cause Notice**

**[Click here to view the JFS 04010, Insufficient Good Cause Notice](#)**

**JFS 04013 Administrative Appeal/County Review Decision**

**[Click here to view the JFS 04013, Administrative Appeal/County Review Decision](#)**

**JFS 04014 Notice Dismissing a County Review Request**

**[Click here to view the JFS 04014, Notice Dismissing a County Review Request](#)**

**JFS 04015 Notice Dismissing Your Administrative Appeal Request**

**[Click here to view the JFS 04015, Notice Dismissing Your Administrative Appeal Request](#)**



**JFS 04019 Notice of Abandoned Hearing**

**[Click here to view the JFS 04019, Notice of Abandoned Hearing](#)**

**JFS 04020 Notice to Appear for a Mediation Scheduling Conference**

**[Click here to view the JFS 04020, Notice to Appear for a Mediation Scheduling Conference](#)**

**JFS 04025 Important Notice About Your Welfare Benefits**

**[Click here to view the JFS 04025](#)**

**JFS 04026 Waiver of Administrative Disqualification Hearing**

**[Click here to view the JFS 04026, Waiver of Administrative Disqualification Hearing](#)**

## **JFS 04027 Disqualification Consent Agreement**

**[Click here to view the JFS 04027, Disqualification Consent Agreement](#)**

**JFS 04028 Record Left Open Notice**

**[Click here to view the JFS 04028, Record Left Open Notice](#)**

**JFS 04029 Postponement/Reschedule Request Denial Notice**

**[Click here to view the JFS 04029, Postponement/Reschedule Request Denial Notice](#)**

**JFS 04030 Notice of Withdrawal**

**[Click here to view the JFS 04030, Notice of Withdrawal](#)**



**JFS 04043 Notice of Denial, Reduction or Termination of Medical Services by Your Managed Care Plan**

**[Click here to view the JFS 04043](#)**

**JFS 04044 Intentional Program Violation Dismissal Notice**

**[Click here to view the JFS 04044, Intentional Program Violation Dismissal Notice](#)**

**JFS 04046 Notice of Denial of Payment for Medical Services by Your Managed Care Plan**

**[Click here to view the JFS 04046](#)**

**JFS 04058 Explanation of Administrative Disqualification Hearing Procedures**

**[Click here to view the JFS 04058, Explanation of Administrative Disqualification Hearing Procedures](#)**

**JFS 04059 Explanation of State Hearing Procedures**

[Click here to view the JFS 04059, Explanation of State Hearing Procedures](#)

**JFS 04060 Referral for Administrative Disqualification Hearing**

**[Click here to view the JFS 04060, Referral for Administrative Disqualification Hearing](#)**

**JFS 04061 Notice to Appear for an Administrative Disqualification Hearing**

**[Click here to view the JFS 04061, Notice to Appear for an Administrative Disqualification Hearing](#)**

**JFS 04062 Notice of Disqualification for Intentional Program Violation**

**[Click here to view the JFS 04062, Notice of Disqualification for Intentional Program Violation](#)**



**JFS 04064 Notice to Appellant**

**[Click here to view the JFS 04064, Notice to Appellant](#)**

**JFS 04065 Prior Notice of Right to a State Hearing**

**[Click here to view the JFS 04065](#)**

**JFS 04066 Notice of Reduction, Suspension, or Termination of Medical Services by Your Managed Care Plan**

**[Click here to view the JFS 04066](#)**

**JFS 04067 Appeal Summary**

**[Click here to view the JFS 04067](#)**

**JFS 04068 Order of Compliance Notice**

**[Click here to view the JFS 04068, Order of Compliance Notice](#)**

## **JFS 04069 State Hearing Request**

**[Click here to view the JFS 04069, State Hearing Request](#)**

**JFS 04071 Notice About Your Request for a Compliance Review**

**[Click here to view the JFS 04071, Notice About Your Request for a Compliance Review](#)**

**JFS 04072 Reschedule Request Not Timely Denial Notice**

**[Click here to view the JFS 04072, Reschedule Request Not Timely Denial Notice](#)**



**JFS 04073 Subpoena Request Denial Notice**

**[Click here to view the JFS 04073, Subpoena Request Denial Notice](#)**

**JFS 04074 Notice of Approval of Your Application for Assistance**

**[Click here to view the JFS 04074](#)**

## **JFS 04075 Compliance Rejection Notice**

**[Click here to view the JFS 04075, Compliance Rejection Notice](#)**

## **JFS 04076 Resource Assessment Worksheet**

[Click here to view the JFS 04076](#)

## **JFS 04077 Resource Transfer Worksheet**

[Click here to view the JFS 04077](#)

## **JFS 04078 Monthly Income Allowance Computation Worksheet**

**[Click here to view the JFS 04078](#)**

**JFS 04085 Prior Notice of Right to a State Hearing**

**[Click here to view the JFS 04085](#)**

**JFS 04086 Comprehensive Case Management and Employment Program Appeal Summary**

**[Click here to view the JFS 04086](#)**



**JFS 07107 Notice of Interim Assistance Reimbursement**

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**ODHS 7205 Follow-Up Demand Letter For Repayment of Overissuance**

**[Click here to view the JFS 07205](#)**

**JFS 07235 Action Taken On Your Request for Replacement Food Stamp Benefits**

**[Click here to view the JFS 07235](#)**

**JFS 07332 Notice of Denial of Your Application for Medicaid: In Cases Involving Community Spouses**

**[Click here to view the JFS 07332](#)**

**JFS 07334 Notice of Denial of Your Application for Assistance**

**[Click here to view the JFS 07334](#)**

**ODHS 7401 Notice of Eligibility, Denial and Pending Status**

[Click here to view the JFS 07401](#)