



March 21, 2023

**State Hearings Manual Transmittal Letter No. 42**

**TO: All State Hearing Manual Holders**  
**FROM: Matt Damschroder, Director**  
**SUBJECT: State Hearings – five-year rule review**

This SHMTL contains amended division 5101:6 Administrative Code rules from the five-year rule review. These rules are effective 04/01/2023.

**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 amended to include the definition for “virtual” in paragraph (F)(12). Grammatical errors were also corrected.

**5101:6-2-51 “Notice of Interim Assistance.”** This rule states that a local agency will provide written notice when in receipt of an individual’s retroactive supplemental social security income (SSI). Paragraph (C) is being rescinded due to the referenced JFS form 07107 being obsoleted 9/2020.

**5101:6-3-01 “State Hearings: Grounds for Requesting a State Hearing.”** This rule provides the grounds for requesting a state hearing across programs under jurisdiction. This rule is being amended to include “expunge” in paragraph (B)(2).

**5101:6-3-02 “State Hearings: State Hearing Requests.”** This rule defines a state hearing request and the time-limit and other conditions for requesting a hearing. Paragraph (C) is being amended to change the time limit from one hundred twenty days to ninety days. Food assistance was changed to “Supplemental Nutrition Assistance Program.” Grammatical errors were also corrected.

**5101:6-4-01 “State Hearings: Continuation of Benefits When a State Hearing is Requested.”** This rule details the eligibility criteria for continuation of benefits when a state

hearing request is received. Food assistance was changed to “Supplemental Nutrition Assistance Program.” Grammatical errors were also corrected.

**5101:6-5-01 “State Hearings: Procedures Prior to the State Hearing.”** This rule provides procedures of the Bureau of State Hearings, managed care plan and local agency prior to state hearing. Revision dates referenced in paragraphs (B) and (I) were amended to the most current date. The referenced source of guidelines was amended in paragraph (I). Revision dates for form references were removed. Food assistance was changed to “Supplemental Nutrition Assistance Program.” Grammatical errors were also corrected.

**5101:6-5-02 “State Hearings: Postponement of the State Hearing.”** This rule provides the process for review and disposition across programs of a request to postpone a scheduled hearing. Food assistance was changed to “Supplemental Nutrition Assistance Program.” Grammatical errors were also corrected.

**5101:6-5-03 “State Hearings: Denial and Dismissal of State Hearing Requests.”** This rule details the standards for denying or dismissing a state hearing request. Food assistance was changed to “Supplemental Nutrition Assistance Program.”

**5101:6-6-01 “State Hearings: Scheduling and Attendance.”** This rule describes the time and place of the hearing, provision of written notice and attendance of the state hearing. This rule was amended to remove references to “video conference” and “local agency” and replace with “virtually.” Food assistance was changed to “Supplemental Nutrition Assistance Program.” Grammatical errors were also corrected.

**5101:6-6-02 “State Hearings: Rights and Responsibilities of the Participants.”** This rule states the rights and responsibilities of all participants during the state hearing. References to “local agency” was replaced with “virtually” where applicable. Revision date references were updated. Grammatical errors were also corrected.

**5101:6-7-01 “State Hearings: State Hearing Decisions.”** This rule states who is responsible for preparing the hearing decision, guidelines for a timely issuance, basis and contents of the decision and notification of the decision. Revision date references were updated. Food assistance was changed to “Supplemental Nutrition Assistance Program.” Grammatical errors were also corrected.

**5101:6-7-03 “State Hearings: Implementation of the Hearing Decision.”** This rule details the requirements and responsible parties associated with the state hearing decision. Food assistance was changed to “Supplemental Nutrition Assistance Program.” Grammatical errors were also corrected.

**5101:6-8-01 “State Hearings: Administrative Appeal of the State Hearing Decision.”** This rule provides an overview of the administration appeal process. Revision dates for form references were removed. Grammatical errors were corrected.

**5101:6-9-01 “State Hearings: Further Appeal Rights.”** This rule provides an overview of the judicial review process. **Social Security Act effective date updated in paragraph (B)(4).** Grammatical errors were corrected.

**5101:6-10-01 “State Hearings: State Hearings for the Comprehensive Case Management and Employment Program.”** This rule describes the hearing process for an individual who has been referred for or received comprehensive case management and employment program services. Rule reference was updated in paragraph (A). Grammatical errors were corrected.

**5101:6-20-13 “Effects of a Pending Administrative Disqualification Hearing.”** This rule describes the effects of pending administrative disqualification hearing as it pertains to application for program benefits and local agency actions for other reasons. Grammatical errors were corrected.

**5101:6-20-19 “Opportunity for Appeal of an Administrative Disqualification.”** This rule describes the rights to further appeal procedures following an administrative disqualification hearing decision. Grammatical errors were corrected.

5101:6-1-01                    **State hearings: general.**

- (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~~for a timely appeal occurs 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~~ 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.
- (12) "Virtual" refers to a hearing that is scheduled through an online platform and attended via an online link with a computer or mobile device, or by telephone using an identification number that is unique to the hearing.

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Five Year Review (FYR) Dates: 11/30/2022 and 04/01/2028

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5101:6-2-51

**Notice of interim assistance reimbursement.**

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.~~



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5101:6-3-01

**State hearings: grounds for requesting a state hearing.**

- (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, expunge, 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) 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.
    - (iii) The plan's upholding the denial of payment for a medical service for which the individual is being billed.
  - (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) The recipient believes that the child support enforcement agency (CSEA) has failed to use appropriate establishment or enforcement techniques.
  - (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.
  - (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.
  - (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.

- (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.

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5101:6-3-02

**State hearings: state hearing requests.****(A) Definition**

- (1) A "request for a state hearing" is defined as a clear expression, by the individual or authorized representative, to the effect that he or she wishes to appeal a decision or wants the opportunity to present his or her case to a higher authority. The request may be either made orally, in writing, 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 an individual's spouse or minor individual's parent or legal guardian may request a hearing on behalf of the individual without written authorization.
  - (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~~For food assistance program~~supplemental nutrition assistance program (SNAP)~~, "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~~For food assistance program~~SNAP~~, 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~~ ninety calendar days from the mail date of the MCP or MCOP appeal resolution decision to request a state hearing.
- (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) ~~In the~~For food assistance program~~SNAP~~, 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.
- (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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5101:6-5-02

**State hearings: postponement of the state hearing.**

(A) Postponement is a request prior to the hearing date to schedule the hearing for a later date.

(1) Public assistance, social ~~services~~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~~Supplemental nutrition assistance program (SNAP)

(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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5101:6-5-03

**State hearings: denial and dismissal of state hearing requests.**

- (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 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 medicaid (ODM) administering the medicaid managed care programs.

- (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 " Notice to Appear for a Scheduled Hearing," (~~rev. 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~~ the supplemental nutrition assistance program (SNAP) 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.
- (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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5101:6-6-02

**State hearings: rights and responsibilities of the participants.****(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~~ 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~~ virtually. The hearing officer shall assure that ~~the accommodations provided by the local agency for the hearing are adequate and that the hearing~~ 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~~ 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. 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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5101:6-7-01

**State hearings: state hearing decisions.****(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~~ supplemental nutrition assistance program (SNAP) 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~~ SNAP 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~~ SNAP 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 July 1, ~~2017~~ 2022) 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,~~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~~ 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. 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~~, 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~~ SNAP 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 "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 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 Ohio department of medicaid.

#### (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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5101:6-8-01                    **State hearings: administrative appeal of the state hearing decision.**

- (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. 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 "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 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.

#### (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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5101:6-9-01

**State hearings: further appeal rights.****(A) Judicial review**

- (1) Individuals who disagree with an administrative appeal decision have the right to appeal that decision to the court of common pleas, with the following exceptions:
  - (a) Judicial review does not apply to administrative appeals subject to the appeal process described in paragraph (B) of this rule.
  - (b) Judicial review does not apply to appeals involving the child support program, except for appeals 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~~recorded 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 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,~~the Ohio department of medicaid (ODM).

The managed care plan or "MyCare Ohio" plan shall be responsible for promptly and fully implementing the order.

ODM 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~~ 1/1/2022) 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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06/01/2003, 09/01/2008, 02/28/2014, 01/01/2018



5101:6-10-01      **State hearings: hearings for the comprehensive case management and employment program.**

(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 December 1, 2019) or 45 C.F.R. 205.10 (as in effect on ~~December 1, 2019~~ January 1, 2022) 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, who at the time of initial enrollment is at least age fourteen 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" and "mailed," when used in reference to notices, decisions, and other documents, means the date the document is sent by either electronic mail or 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~~stepparent.
- (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 failed to fulfill its duties, as described in Chapter 5101:14-1 of the Administrative Code. Any such request may be verbal or in writing and 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 either U.S. mail or its electronic equivalent, or hand delivered to the individual.
- (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 to file the complaint within three hundred sixty-five days of the date of the CCMEP-related incident that caused the dispute. 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 assign an independent, objective, and impartial individual (preferably a third party) to 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 independent, objective, and impartial individual designated by the local agency.
  - (d) If, within sixty calendar days of the date the individual first files a timely 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 either within three hundred sixty-five calendar days of the date of the initial CCMEP-related incident that caused the complaint to be filed with the local agency, or within one hundred fifty

calendar days of the date the complaint was timely filed with the local agency, whichever date comes later.

- (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 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, or his/her authorized representative.
  - (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 defined in 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) The state hearing shall be conducted 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, except for 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~~, 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~~, 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) or 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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5101:6-20-13

**Effect of a pending administrative disqualification hearing.**

- (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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5101:6-20-19

**Opportunity for appeal of an administrative disqualification.**

- (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 (IPV) 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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5101:6-4-01

**State hearings: continuation of benefits when a state hearing is requested.**

(A) When a request for a state hearing is received by the state, a managed care plan (MCP), a "MyCare Ohio" plan (MCOP), or local agency within the ~~fifteen calendar~~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~~the supplemental nutrition assistance program (SNAP) or basis of issuance occurs while the hearing decision is pending.
- (5) The assistance group specifically waives continuation of ~~food assistance~~SNAP 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~~SNAP certification period expires. Further entitlement to ~~food assistance~~SNAP 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~~SNAP employment and training program are being reduced or terminated.
- (8) The MCP or MCOP member specifically waives continuation of medicaid benefits.

- (9) The MCP or MCOP continues the provision of medical ~~services~~services, and the member receives the services previously requested by the provider and authorized by the 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 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 to food assistance~~SNAP 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~~SNAP 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~~SNAP 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~~SNAP 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~~SNAP 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~~workday 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~~workday 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) MCP or MCOP issues.
- (1) When a hearing request involves an adverse benefit determination appeal resolution within the prior notice period, as described in rule 5160-26-08.4 or 5160-58-08.4 of the Administrative Code, the MCP or MCOP shall be responsible for ensuring benefits are continued at or reinstated to the previous level until the services that were authorized by the 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 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 will not enroll the member in the CSP until the state hearing decision is issued.
  - (5) MCPs and MCOPs are not 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~~ SNAP 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.
- (I) 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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5101:6-5-01

**State hearings: procedures prior to the state hearing.**

- (A) The bureau of state hearings (BSH) 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~~)) 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~~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.
- (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,~~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~~ supplemental assistance nutrition program (SNAP) 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)~~ 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.

(E) Legal representation

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. 1/2015)~~. The local agency may provide legal services through a social services contract.

(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 a managed care plan or "MyCare Ohio" plan, the provisions of paragraphs (F)(1), (F)(2), (F)(4), and (F)(5) of this rule shall apply to the managed care plan and "MyCare Ohio" plan, its subcontracting providers, and all relevant records.

(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 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.

(H) Transportation

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

(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) "Services LEP Drafting Guidelines" (rev. 5/2008) at [http://jfs.ohio.gov/civilrights/pdf/LEP\\_Policy\\_12.pdf](http://jfs.ohio.gov/civilrights/pdf/LEP_Policy_12.pdf). <https://jfs.ohio.gov/civilrights/pdf/LEP-Plan-Drafting-Guidelines-2.pdf>

(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~~ ensure interpreter services at a reasonable cost to the local agencies when it comes necessary to utilize such services.

(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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5101:6-6-01

**State hearings: scheduling and attendance.**

## (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~~ virtually, 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)~~ (a) State hearings conducted via video conference virtually, and on camera shall be considered face to face hearings.
  - (b) If an individual is unable to participate in a virtual hearing due to phone or internet limitations, they can attend the hearing at the local agency. The local agency will assure an adequate location for the individual to participate in the hearing that is private, with proper decorum, and a minimum of distractions.
- (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~~ supplemental nutrition assistance program (SNAP), 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~~ SNAP 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 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.
  - (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 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 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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5101:6-7-03

**State hearings: implementation of the hearing decision.****(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~~, The 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~~ the supplemental nutrition assistance program (SNAP), any increase in benefits must be reflected in the ~~food assistance~~ SNAP 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) Compliance shall be promptly reported to the bureau of state hearings, via a notice certifying the agency's compliance with the state hearing ~~decision~~, 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, each shall also send a copy of the notice certifying the agency's compliance with the state hearing decision, to ODM.

(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~~SNAP 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~~SNAP, compliance shall be considered achieved on the date the action is reflected in the assistance group's ~~food assistance~~SNAP allotment.

(D) Underpayments/~~underissuances~~under issuances

- (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~~SNAP 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~~over issuances

- (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~~ SNAP, a claim against the assistance group for any ~~overissuance~~ over issuance 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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