Hearings

Participant Guide

March 19, 2012

Table of Contents

By the end of this module, participants will be able to

- Recognize the definition of a fair hearing
- List the reasons an AU member may request a fair hearing
- State the process by which an AU member may request a hearing

REQUESTING A HEARING

- ✓ A hearing may be requested for any reason except:
  _____
  _____
  _____

- ✓ A hearing may be requested at the following times:
  _____
  _____
  _____

- ✓ The AU must request an initial hearing within the following time frames:

Childcare	_____
Medicaid	_____
TANF	_____
Food Stamps*	_____

* For Food Stamps an A/R may request a hearing to dispute the current level of benefits at any time within the period of eligibility.

- ✓ An A/R may request a hearing _____ or in _____.

- ✓ If a verbal request is made, follow up with a _____ request for the TANF, Medicaid and Childcare programs within 15 days.

- ✓ A written request is ____ required for Food Stamps.

- ✓ The written request may be on Form ____, Form ____ for Childcare, the fair hearing section on various agency forms, or a statement provided by the AU.

Request for Hearing

I request that the Department of Human Services hold a fair hearing to review the action or inaction of the _____ County Department of Family and Children Services in regard to my claim for assistance as provided under the special assistance program checked below:

- ☐ Temporary Assistance to Needy Families (TANF)
- ☐ Food Stamps
- ☐ Medical Assistance
- ☐ Other (specify program) _____

Form 118
All applicable program areas must be indicated

The reason I want a hearing is:

_____

_____

_____

_____

_____

Check the correct box if applicable:

- ☐ I do not want to continue receiving the benefits I now receive while waiting for the hearing decision.
- ☐ I want to continue receiving the benefits I now receive while waiting for the hearing decision. **I understand that I may be required to repay the Department of Human Services any overpayment in benefits if I continue receiving benefits the hearing officer later decides I was not entitled to. NOTE: Food Stamps benefits are not continued at the pre-hearing level beyond the next periodic review. If Food Stamps benefits are denied at application or periodic review, they are not continued.**

Date: _____ _____
Signature of Witness

_____ _____
Signature or Mark of Claimant Address of Witness

Please return this completed form to your County Department
(The signature and address of one witness must appear above when the claimant signs with a mark)

This space for use of State or County Department	Case Number	Date Received	
		By County	By State

D. ADMINISTRATIVE HEARINGS

You have a right to be heard and not to be discriminated against. Should a problem arise about your application placement, or change in service the county DFCS will address it promptly. If you are still not satisfied, you may call 1-800-869-1150 (this is a free call) or file for an administrative hearing. The child care provider will handle other complaints and grievances.

IF YOU WANT A NA DMINISTRATIVE HEARING, FILL OUT THIS FORM WITHIN THIRTY (30) DAYS AND MAIL IT TO YOUR DEPARTMENT OF FAMILY AND CHILDREN SERVICES.

_____Today's Date
of Person Requesting Hearing

_____
Telephone Number and Email Address Where You Can Be Reached

Form 62
Written request for a CAPS hearing

Use this space to tell us why you want an administrative hearing:

_____

_____

_____

❑ I wish to continue receiving benefits at the current level pending an administrative hearing determination. I understand I will be required to repay the Department of Human Services any overpayment in child care benefits to which I was not entitled to receive as determined by the Administrative Law Judge.

❑ I do not wish to continue receiving benefits at the current level pending an administrative hearing determination.

If your eligibility changes you will be advised in writing. If, for any reason, you think proper consideration has not been given your situation, you have the right to appeal to the State Department of Human Services for an administrative hearing. Procedures for requesting an administrative hearing are below.

If you request an administrative hearing within 10 days from the date on the top of the form, your benefits can be continued or your case returned to the same status it was in before this action unless the Administrative Law Judge decides the sole reason is one of state or federal law or policy.

You must request an initial hearing within **thirty (30)** days of notification of the decision with which you disagree. Your request for a hearing may be denied if you do not request it promptly.

HEARING PROCEDURES

You may request an administrative hearing either orally or in writing by notifying the County Department of Family and Children Services. You have thirty days from the date on the form to request a hearing. If you request a hearing orally, you have fifteen days from the date of your oral request to submit your request in writing. A representative of the Office of State Administrative Hearing would hold the hearing in your county. Any member of the staff will be glad to furnish the necessary forms and help you file your appeal, and assist you in every way possible to prepare for the hearing. An authorized representative such as legal counsel, a relative, friend, or other spokesman may represent you at the hearing or you may represent yourself. Free legal services may be available to you in your community. If you are interested in legal services, call the number for free legal services listed on the front of this form. You can get information about hearings on the Internet at http://www.ganet.org/osah/

Form 62 12/2010 1 copy to Client 1 copy to Child Care Provider 1 copy to Case Record

Processing a Hearing Request

By the end of this module, participants will be able to

- Correctly complete required hearing documents
- Identify which documents must be submitted within three business days
- Describe the expectations for contacting the A/R after a hearing request
- Explain the A/R's right to review relevant documents
- Explain how confidentiality affects document review
- Withdraw a request for a hearing
- Determine whether the AU is entitled to a continuation of benefits during the hearing process

Four Steps for Processing a Hearing Request

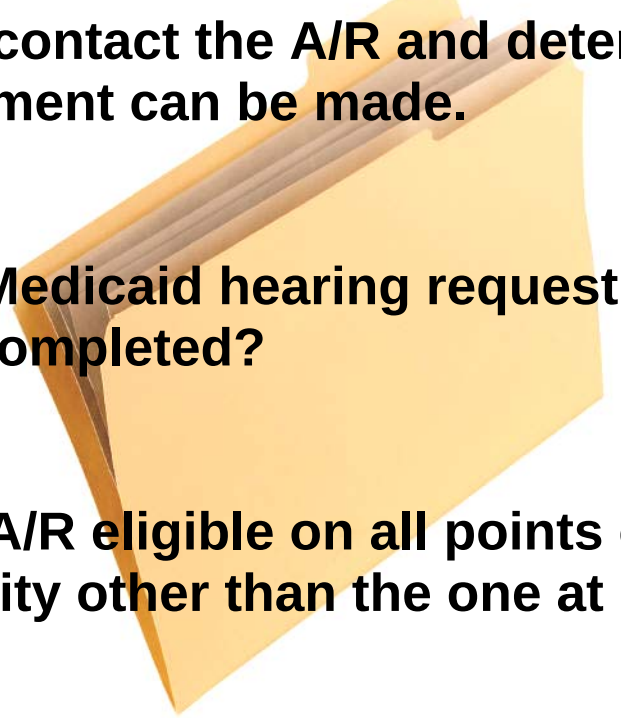
1. _____ the case record.

2. _____ the A/R to discuss the contested issue(s) indicated on the hearing request.

3. _____ the required documents to the OGC within **three** business days of the request.

4. Place a copy of all documents submitted to the OGC in the case record and update _____ appropriately.

REVIEW THE CASE RECORD



- ✓ **Was the correct action taken?**
  If not, contact the A/R and determine if an adjustment can be made.
- ✓ **For a Medicaid hearing request, was a CMD completed?**
- ✓ **Is the A/R eligible on all points of eligibility other than the one at issue?**
- ✓ **Is there enough information in the record to determine the correct amount of assistance?**

CONFERENCE

Discuss the issue(s) with the A/R or representative prior to submitting the request.

However, do not delay submitting the documents to the OGC because you are waiting for contact with the A/R.

If the request is based on denial of Food Stamp expedited services, conduct the conference within three days.

CONFIDENTIALITY

TANF (MR 1002)

Medicaid (MR 2010)

Food Stamps (MR 3005)

Childcare (MR 6002)

SUBMISSION OF DOCUMENTS

Submit the documents listed below to the Office of General Counsel within _____ business days.

- _____
- _____
- _____
- _____
- _____
- _____

OSAH FORM 1

This form is available online at http://www.osah.ga.gov/ or by telephone request at (404) 657-2800.

OSAH USE ONLY DOCKET NUMBER:	AGENCY	CASE TYPE	DOCKET NUMBER	COUNTY	JUDGE
	DFCS				

GEORGIA DEPARTMENT OF HUMAN SERVICES (DFCS)

APPLICANT/RECIPIENT County of Residence:	Date Request for Hearing Filed with Agency:	Agency Case Number:

Check Here if an Application Was Denied: ☐

Check ALL Appeals That Apply:

☐ CAPS ☐ FCDP ☐ FOSTPLACE ☐ FSP ☐ SAA ☐ TANF ☐ TIFS

AND

Check Only One in This Box:

☐ Case Closure ☐ Reduction of Benefits ☐ Disputed Determination of Benefits
☐ Failure to Act Within Reasonable Time for Benefit Change
☐ Agency Inaction ☐ Denial of Expedited Services ☐ Other:

APPLICANT/RECIPIENT

NAME	TEL NO	FAX NO
CURRENT ADDRESS INCLUDING ZIP CODE		EMAIL
ATTORNEY NAME (IF APPLICABLE)	TEL NO	FAX NO
ADDRESS INCLUDING ZIP CODE	GEORGIA BAR NO	EMAIL
PERSONAL REPRESENTATIVE NAME (IF APPLICABLE)	TEL NO	FAX NO
CURRENT ADDRESS INCLUDING ZIP CODE	RELATIONSHIP TO CLAIMANT	EMAIL

LOCAL DFCS OFFICE

NAME OF OFFICE	TEL NO	FAX NO
CURRENT ADDRESS INCLUDING ZIP CODE	CASEWORKER'S FULL NAME EMAIL SUPERVISOR'S FULL NAME EMAIL	CASEWORKER'S DIRECT TEL NO CELL SUPERVISOR'S DIRECT TEL NO
ATTORNEY NAME (IF APPLICABLE)	TEL NO	FAX NO
ADDRESS INCLUDING ZIP CODE	GEORGIA BAR NO	EMAIL

DFCS (web-version) Revised 3/12/12

OSAH FORM 1

This form is available online at http://www.osah.ga.gov/ or by telephone request at (404) 657-2800.

OSAH USE ONLY DOCKET NUMBER:	AGENCY	CASE TYPE	DOCKET NUMBER	COUNTY	JUDGE
	DFCS				

GEORGIA DEPARTMENT OF HUMAN SERVICES
(DFCS – Medicaid Only)

Applicant/Recipient County of Residence:	Date Request for Hearing Filed with Agency:	Agency Case Number:

Check Here if an Application Was Denied: ☐

Check Only One in This Box:

☐Case Closure ☐Reduction of Benefits ☐Disputed Determination of Benefits
☐Failure to Act Within Reasonable Time for Benefit Change
☐Agency Inaction ☐Denial of Expedited Services ☐Other:

Check Only One:

FAMILY MEDICAID REFERRALS

☐4MOCS (Child Support 3 of 6 months: § 3280)	☐LIMFE1 (Financial Eligibility/Resources: CH 2300	☐LIM (Low Income Medicaid: § 2162)
☐AAM1 (IV- Adoption: § 2817)	☐LIMFE2 (Financial Eligibility/Income: CH 2400	☐TMA (Trans Medical Assistance: § 2166)
☐CWFC (Welfare Foster: § 2890)	☐LIMOM (Ongoing Mgt: CH 2700)	☐LNH (LIM Nursing Home: § 2172)
☐EMA (Emergency Medical: § 2054)	☐NEWBORN (Newborn Medicaid: § 2174)	☐FMRETRO (FM Retroactive Medicaid: § 2053)
☐FOST (IV-E Foster Care: § 2815)	☐PEM (Presumptive Eligibility: § 2067)	☐FMA (Application: § 2050 & § 2065)
☐LIMB (Budgeting: CH 2650)	☐PWCMN (Pregnancy: § 2180 & § 2184)	☐FMAU (FM Assistance Unit: CH 2600)
☐LIMBE (Basic Eligibility: CH 2200)	☐RSM (Right from the Start: § 2180 & § 2182)	☐OTHER, specify:
☐FMN (Family Med Needy: § 2196)	☐SAAM (State Adoption Assistance: § 2895)	

AGED, BLIND OR DISABLED (ABD) REFERRALS

☐ABDB (ABD Eligibility Budget: CH 2500)	☐FSSIDC (Former SSI Disabled Child: § 2116)	☐ICWP (Independent Care Waiver § 2139)
☐ABDBE (ABD Basic Eligibility: CH 2200)	☐Hospice (Hospice Medicaid: § 2135)	☐QDWI (Qualified Disabled Working Ind:§ 2147)
☐ABDCM (ABD Case Mgt.: CH 2700)	☐Hospital (Hospital Medicaid: § 2137)	☐QI1 (Qualifying Individuals 1: § 2145)
☐ABDFR (ABD Fin Responsibility: CH 2500)	☐KATIE (Deeming Waiver: § 2133)	☐QI2 (Qualifying Individuals 2: § 2146)
☐ABDI (ABD Income: CH 2400)	☐Laurens (Head Injury Waiver: § 2933)	☐QMB (Qualified Medicare Beneficiaries: § 2143)
☐ABDL (ABD Liability/Cost: CH 2550 & 2575)	☐MRWP (Mental Retardation Waiver: § 2132)	☐SLMB (Special Low Income Medicaid Ben: § 2144)
☐ABDR (ABD Resources: CH 2300)	☐NH (Nursing Home: § 2141)	☐SSI (SSI MEDICAID: § 2111)
☐ABDRET (ABD Retroactive Medicaid: § 2053)	☐PICKLE (PL 94-566: § 2113)	☐WIDO1 (Widows & Widowers: § 2117)
☐ABDA (ABD Application § 2050 & § 2060)	☐PROTEC (PROTEC: § 2123)	☐WIDO2 (Widows & Widowers: § 2119)
☐AMN (Adult Medically Needy: § 2150)	☐MODEL (Model Waiver Program: § 2140)	☐WIDO3 (Widows & Widowers: § 2121)
☐AMNNH (AMN Nursing Home: § 2151)	☐CCSP (Community Care Services: § 2131)	☐OTHER, specify:
☐DAC (Disabled Adult Child: § 2115)	☐BCCP (Breast & Cervical Cancer: § 2198)	

APPLICANT/RECIPIENT

NAME	TEL NO	FAX NO
CURRENT ADDRESS INCLUDING ZIP CODE		EMAIL
ATTORNEY NAME (IF APPLICABLE)	TEL NO	FAX NO
ADDRESS INCLUDING ZIP CODE	GEORGIA BAR NO	EMAIL
PERSONAL REPRESENTATIVE NAME (IF APPLICABLE)	TEL NO	FAX NO
CURRENT ADDRESS INCLUDING ZIP CODE	RELATIONSHIP TO CLAIMANT	EMAIL

LOCAL DFCS OFFICE

NAME OF OFFICE	TEL NO	FAX NO
CURRENT ADDRESS INCLUDING ZIP CODE	CASEWORKER'S FULL NAME EMAIL SUPERVISOR'S FULL NAME EMAIL	CASEWORKER'S DIRECT TEL NO CELL SUPERVISOR'S DIRECT TEL NO

DFCS_MED OSAH FORM1 Revised 3/12/12

Notice Content from SUCCESS

- Access Notice History from AMEN – Selection H
- Locate applicable notice that corresponds to the customer's hearing request
- Print **all** pages of the Notice Content
  - Click File
  - Click Multiple screen
  - Click Camera
  - Click Blue area at the top of page
  - Press ENTER
  - Click Camera
  - Click Blue area at the top of the page

Must submit ALL pages from the Summary Notice to the OGC within 3 business days of the hearing request.

IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

Petitioner,	:	Docket No.: OSAH-
v.	:	
Respondent.	:	

SUBPOENA

TO:

YOU ARE HEREBY COMMANDED, to appear in court on behalf of ☐ **Petitioner** ☐ **Respondent** to be:

☐ Sworn as a Witness

☐ **Produce** the Document on the Attached List:

_____

_____

The court date, time and location are:

DATE:

TIME:

LOCATION:

You are required to attend from day to day and from time to time until the hearing is completed or you have been released by the judge.

HEREIN FAIL NOT UNDER PENALTY OF LAW BY AUTHORITY OF THE ASSIGNED JUDGE.

IMPORTANT NOTICE: This subpoena was obtained as a blank form by the requesting party from the Court's website or from the Clerk. Once issued, a subpoena may be quashed by the Judge if it appears that the subpoena is unreasonable or oppressive, or that the testimony, documents, or objects sought are irrelevant, immaterial, or cumulative and unnecessary to a party's preparation and presentation of its position at the hearing, or that basic fairness dictates that the subpoena should not be enforced. The Judge may require the party issuing the subpoena to advance the reasonable cost of producing the documents or objects. OSAH Rule 616-1-2-.19.

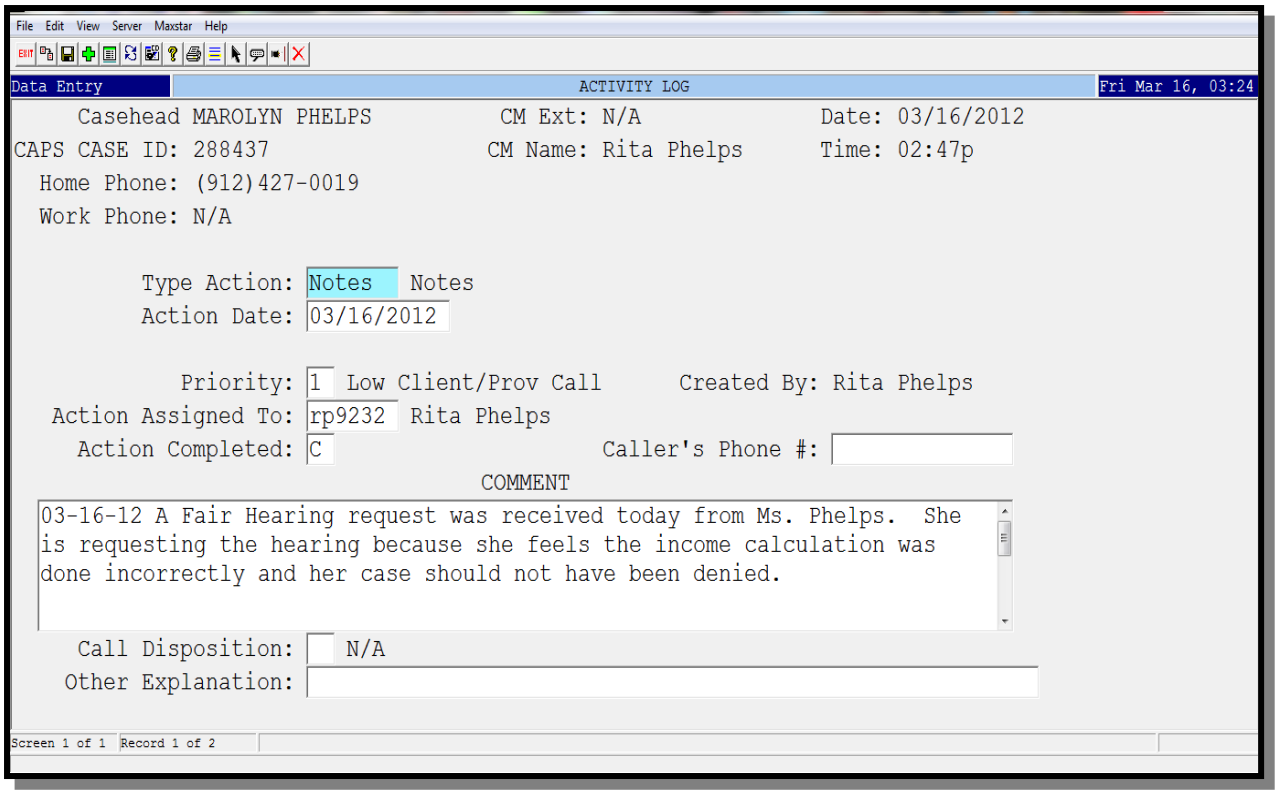
IF YOU HAVE QUESTIONS, CONTACT THE PERSON ISSUING THE SUBPOENA:	**PROOF OF SERVICE**
This section must be completed by the person issuing the subpoena. Name: Telephone:	This subpoena was served on: ☐ personally ☐ by registered or certified mail ☐ by delivery to a commercial delivery company for statutory overnight delivery by: Telephone: *A copy of the return receipt for registered or certified mail or a copy of the receipt provided by the commercial delivery company must be attached if not personally served. * This section must be completed by the person issues the subpoena.

SUCCESS DOCUMENTATION

```
  ****************************** Fair Hearing ******************************
  03/15/2012 12:26 PM Hearings Training 404-555-1212
  AU ID - XXXXXXXXX  Case Type - FS
  Date of request for hearing:____________
  Reason for hearing:_____________________________________________________
  :_______________________________________________________________________
  :_______________________________________________________________________
  Date hearing request sent to Legal Services:_____________
  Date hearing scheduled:__________  Hearing rescheduled     Yes ( )   No ( )
  Date of decision:_______________
  Decision in favor of Agency ( )    Reason - Withdrawal ( )
                                              No show    ( )
                                              Other      ( ) Explain:_____
  :_______________________________________________________________________
  Decision in favor of Client ( )       Explain:__________________________
  :_______________________________________________________________________
  Benefits Continued  Yes ( )   No ( )     Claim scheduled   Yes ( )   No ( )
  Comments:_______________________________________________________________
                                                                        More
MESSAGE
0019 UPDATE COMPLETED SUCCESSFULLY
13-bott
```

- Access the mandatory Fair Hearing ADT on the **STAT** screen
- Copy and paste to the **NARR** screen

MAXSTAR DOCUMENTATION



- Update the Case Activity Log with the required documentation related to the hearing request

Continuation of Benefits

TANF Program

If the AU requests a hearing	Then while the initial hearing decision is pending,
within 14 days of the date of the **timely** notice and requests continuation of benefits, or does not waive the right to continued benefits on Form 118,	cash assistance is continued in an amount equivalent to that received by the AU prior to the change specified on the timely notice.
within 10 days of **adequate** notice and requests continuation of benefits,	cash assistance is reinstated to the amount equal to what the AU received prior to the date of the adequate notice.
and claims Good Cause for not appealing during the 10 day notice period,	cash assistance is reinstated only upon approval by the ALJ.

Medicaid Program

If the AR requests a hearing	Then while the initial hearing decision is pending,
within 14 days of the date of the **timely** notice and requests continuation of benefits,	continue Medicaid at a level equivalent to the level prior to the date of the timely notice. Continue the vendor payment and patient liability or cost share, if applicable.
within 14 days of **adequate** notice and requests continuation of benefits,	reinstate Medicaid at a level equivalent to the level prior to the date of the adequate notice. Reinstate the vendor payment and patient liability or cost share, if applicable.
and claims Good Cause for not appealing during the 14 day timely notice period,	reinstate benefits only upon approval by the ALJ.

Food Stamp Program

If the AU requests a hearing	Then while the initial hearing decision is pending,
within 14 days of the date of the **timely** notice and chooses to continue benefits or fails to waive the right to continued benefits on Form 118,	continue benefits at the level prior to the date of the timely notice.
within 10 days of **adequate** notice and chooses to continue benefits,	reinstate benefits at the level prior to the date of the adequate notice. **NOTE:** Reinstate Food Stamp benefits within five working days of the request for a hearing.
and claims Good Cause for not appealing during the 14 day timely notice period,*	reinstate benefits only after approval by the Appeal Reviewer.

***Based on a clearance from the FS Policy Unit**

NOTE: FS benefits cannot be continued based on actions taken at Review.

Childcare Program

If the AU requests a hearing	Then while the initial hearing decision is pending,
within 10 calendar days from the date of the Form 62,	care can be continued or returned to the same status it was prior to the action.

Nathan Deal, Governor Clyde L. Reese, III, Esq., Commissioner

Georgia Department of Human Services ▪ Family & Children Services ▪ Ron Scroggy, Acting, Director
Two Peachtree Street, NW ▪ Suite 19-490 ▪ Atlanta, GA 30303 ▪ 404-651-8409 ▪ 404-657-5105

(Date)

VIA *(Insert mode of delivery, e.g. electronic mail, US mail, fax, etc.)*

The Honorable ***(Insert ALJ's name)***
Administrative Law Judge
Office of State Administrative Hearings
230 Peachtree Street, NW
Suite 850
Atlanta, Georgia 30303-1534

Hearing request withdrawn. Submit to OGC within 24 hours along with the A/R's written statement.

RE: NOTICE OF PETITIONER'S WITHDRAWAL OF HEARING REQUEST
(Insert Case Name and Docket Number)

Dear ***(Insert ALJ's name):***

This letter is written to notify you that Petitioner has withdrawn his request for a hearing in the above-styled matter. I have attached Petitioner's letter withdrawing his request for a hearing. Thus, there is no contested matter and the hearing scheduled for ***(Insert hearing date)*** is no longer necessary. Please contact me at ***(Telephone number)*** if you have any questions or concerns.

Sincerely,

Susie Sure, Case Manager
Division of Family and Children Services

cc: ***(A/R's name)***
(Legal Representative's name, if applicable)

Enclosure ***(Attach the A/R's statement of withdrawal)***

Preparing for a Hearing

By the end of this module, participants will be able to

- Recognize the duties of each party involved in OFI hearings
- Determine who to contact when you think a case has a high level of legal complexity
- Identify motions that must be filed to request a telephone hearing

Responsibilities of Parties

Appeals Reviewer

OSAH

Administrative Law Judge

AU

DFCS

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

JOHN JOHNSON	)
(Name of Applicant/Recipient)	)
Petitioner,	)***(Docket or Case No.:)***
v.	)
	)
	)
DEPARTMENT OF HUMAN SERVICES, DIVISION OF FAMILY AND CHILDREN SERVICES,	)***(Agency No.:)***
	)
Respondent.	)
	)

Requesting Telephone Hearings – Date Set

RESPONDENT'S MOTION FOR TELEPHONIC HEARING

Comes now the Division of Family and Children Services, Georgia Department of Human Services (Respondent) and files this Motion for Telephonic Hearing of the hearing scheduled for ***(Date of Hearing).***

1.

Pursuant to Rule 16(3) of the Office of State Administrative Hearings, Respondent in the above-captioned matter respectfully requests that the hearing currently scheduled for ***(Date of Hearing)*** be rescheduled as a telephonic hearing. As set forth below, good cause exists to schedule the hearing by telephone. In support of the motion, Respondent states as follows:

2.

Respondent requests that the above-styled case be heard by telephone due to budgetary constraints requiring the Department to reduce travel budgets, as well as increased workloads requiring staff to decrease travel and time away from the office. ***(You may include any other valid reasons supporting the request).***

3.

Respondent contends that the Petitioner was contacted and does not object to the matter being heard via telephone. Respondent will ensure that the Court is provided telephone numbers in which both parties may be contacted for the telephonic hearing, if such is allowed.

4.

Respondent will agree to forward any exhibits that may be introduced at the hearing to the Court and the opposing party prior to the hearing.

5.

Allowing the parties to appear by telephone or conducting this hearing by telephone will not alter the rights of the parties.

WHEREFORE, Respondent requests that this hearing be scheduled as a telephonic hearing.

This ____ day of _____, 2010.

_____
Susie Sure, Case Manager
Division of Family and Children Services
Department of Human Services
2 Peachtree Street, NW
Atlanta, Georgia 30303
404-657-5000 (O)
404-657-5151 (F)
ssure@dhr.state.ga.us
(Agency Representative's complete contact information)

INSTRUCTIONS

MOTIONS FOR TELEPHONIC HEARING (HEARING DATE SET)

1. Once notice of hearing date has been received, contact the A/R consent to request that the scheduled in-person hearing be heard by telephone.

2. Explain to the A/R that he/she can come to your office and you both can participate in the hearing by speaker phone.

3. Explain to the A/R the benefits of a telephone hearing (i.e. travel distance to DFCS office as opposed to hearing site, etc.)

4. **If the A/R agrees to a telephone hearing**, document consent in SUCCESS and explain to him/her that you will send a written request to the judge for the hearing to be rescheduled as a telephone hearing and that he/she will receive a copy of the request.

5. Explain that the judge makes the decision as to whether or not the hearing will be held by telephone and that he/she will receive a notice by the judge stating whether the hearing may be held by telephone.

6. Submit the attached Motion for Telephonic Hearing to the judge's assistant at the email/fax/mailing address on the hearing notice.

7. Provide the A/R with a copy of all documents submitted to the ALJ/OSAH.

8. **If the A/R does not agree to a telephone hearing**, do not pressure him/her to agree. Document SUCCESS. You may still submit your request for a telephone hearing to the ALJ, but you **must** revise paragraph 3 of the Motion to indicate that Petitioner does not consent. You must submit a copy of the Motion to the A/R.

9. Contact your Supervisor with questions or issues regarding the Motion. Your Supervisor should contact DFCS Legal Services if unable to resolve the issue.

******PLEASE NOTE THAT THE ALJ AND THE A/R SHOULD HAVE A COPY OF ALL EXHIBITS PRIOR TO THE TELEPHONE HEARING.**

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

JOHN JOHNSON	)
(Name of Applicant/Recipient)	)
Petitioner,	)***(Docket or Case No.:)***
v.	)
	)
	)
	)***(Agency No.:)***
DEPARTMENT OF HUMAN SERVICES, DIVISION OF FAMILY AND CHILDREN SERVICES,	)
Respondent.	)

Requesting Telephone Hearings – No Date Set

RESPONDENT'S MOTION FOR TELEPHONIC HEARING

Comes now the Division of Family and Children Services, Georgia Department of Human Services (Respondent) and files this Motion for Telephonic Hearing in the above-styled case to be scheduled for hearing**.**

1.

Pursuant to Rule 16(3) of the Office of State Administrative Hearings, Respondent in the above-captioned matter respectfully requests that the hearing be scheduled as a telephonic hearing. As set forth below, good cause exists to schedule the hearing by telephone. In support of the motion, Respondent states as follows:

2.

Respondent requests that the above-styled case be heard by telephone due to budgetary constraints requiring the Department to reduce travel budgets, as well as increased workloads requiring staff to decrease travel and time away from the office. ***(You may include any other valid reasons supporting the request)*.**

3.

Respondent contends that the Petitioner was contacted and does not object to the matter being heard via telephone. Respondent will ensure that the Court is provided telephone numbers in which both parties may be contacted for the telephonic hearing, if such is allowed.

4.

Respondent will agree to forward any exhibits that may be introduced at the hearing to the Court and the opposing party prior to the hearing.

5.

Allowing the parties to appear by telephone or conducting this hearing by telephone will not alter the rights of the parties.

WHEREFORE, Respondent requests that this hearing be scheduled as a telephonic hearing.

This ____ day of _____, 2010.

_____
Susie Sure, Case Manager
Division of Family and Children Services
Department of Human Services
2 Peachtree Street, NW
Atlanta, Georgia 30303
404-657-5000 (O)
404-657-5151 (F)
ssure@dhr.state.ga.us
(Agency Representative's complete contact information)

INSTRUCTIONS

MOTIONS FOR TELEPHONIC HEARING (HEARING DATE NOT SET)

1. Once notice of a request for a hearing is received, contact the A/R for consent to request that the case be heard by telephone.

2. Explain to the A/R that he/she can come to your office and you both can participate in the hearing by speaker phone.

3. Explain to the A/R the benefits of a telephone hearing (i.e. travel distance to DFCS office as opposed to hearing site, etc.)

4. **If the A/R agrees to a telephone hearing**, document consent in SUCCESS and explain to him/her that you will send a written request for a telephone hearing to the judge and that he/she will receive a copy of the request.

5. Explain that the judge makes the decision as to whether or not the hearing is to be held by telephone and that he/she will receive a notice by the judge of the hearing date/time/whether hearing held in-person or by telephone.

6. Submit the attached Motion for Telephonic Hearing with the packet to be submitted to the ALJ/OSAH by the OGC/Appeals Reviewer to schedule a hearing. Include ***all*** supporting documents to be discussed at the hearing (i.e. policy, regulations, exhibits, budgets, etc.)

7. Try to clearly indicate that the Motion is included in the packet (For example: place on top of the packet a notice that states – **PLEASE NOTE: MOTION FOR TELEPHONIC HEARING ENCLOSED**).

8. Provide the A/R with a copy of all documents submitted to ALJ/OSAH including the Motion for Telephonic Hearing.

9. **If the A/R does not agree to a telephone hearing**, do not pressure him/her to agree. Document SUCCESS. You may still submit your request for a telephone hearing to the ALJ, but you **must** revise paragraph 3 of the Motion to indicate that Petitioner does not consent. You must still submit a copy of the Motion to the A/R.

10. Contact your Supervisor with questions or issues regarding the Motion. The Supervisor should contact DFCS Legal if unable to resolve the issue.

******PLEASE NOTE THAT THE ALJ AND THE A/R SHOULD HAVE A COPY OF ALL EXHIBITS PRIOR TO THE TELEPHONE HEARING.**

The Hearing, Decision and Appeals

By the end of this module, participants will be able to

- Identify how to prepare for a hearing and how to professionally represent the agency.
- List the components of an informal OFI hearing.
- List the components of a formal OFI hearing.
- Locate and use pre-written scripts when the ALJ asks you to defend the policy.
- List duties related to processing a decision.
- List the three types of appeals.
- Identify which form must be submitted when a Case Manager disagrees with the hearing decision.

Professional Representation

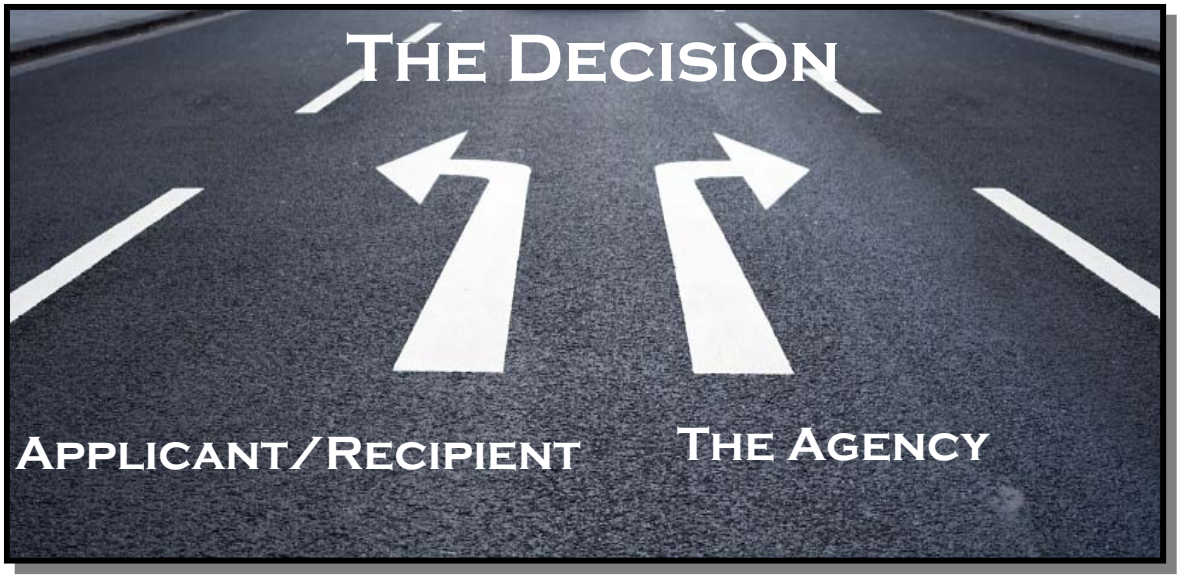
Scripted Responses

In deciding the issues raised in this Appeal, the hearing officer must enforce the policy adopted by the Department of Human Services, Division of Family and Children Services with regard to the [Food Stamp or TANF] Program and cannot declare a policy invalid or change a policy adopted by the agency. The position of the Department of Human Services, Division of Family and Children Services is that its policies are valid and meet the requirements of law.

TANF & FOOD STAMPS

In deciding the issues raised in this Appeal, the hearing officer must enforce the policy adopted by the Department of Human Services and the Department of Community Health with regard to eligibility for Medicaid and cannot declare such a policy invalid or change a policy. The position of the Department of Human Services and the Department of Community Health is that these policies are valid and meet the requirements of law.

MEDICAID



- The hearing decision is issued within:

  _____ days for TANF, Medicaid and Childcare

  _____ days for Food Stamps

- Once the decision is rendered, _____ _____.

- Notify the AU with a system or manual notice. Indicate that the _____ taken is the result of the hearing. Include _____ month's circumstance and eligibility status.

Appeals

Three Types:

_____

_____

_____

County-Initiated Agency Appeals:

_____

_____

Submit to:

_____

_____

_____

Georgia Department of Human Services

_____County Request for a Final Appeal

AU IDs: _____ Date: _____

TANF: _____ ABD: _____ Name of County Contact: _____

FS: _____ Family MAO: _____ Telephone #: _____

CAPS: _____ Other: _____ Appeal #: _____

Claimant: _____ Basis for Appeal: (Laws, Rules, Policy)

Address: _____ _____

_____ _____

_____ _____

Issue(s) to be Resolved:

_____

For Use by State Level Review

ACCEPTED (Provide Laws, Rules, Policy)

WHY? _____

_____

_____

Date sent to LSO: _____ State Reviewer: _____

REJECTED (Provide Laws, Rules, Policy)

WHY: _____

_____

_____

Date Returned to County: _____ State Reviewer: _____

For Use by LSO

Date Received: _____

Date of Final Decision: _____

_____

Signature of Appeals Reviewer

Form 136 (R. 02/10)

GEORGIA DEPARTMENT OF HUMAN SERVICES

OFFICE OF GENERAL COUNSEL

2 Peachtree Street, NW
Suite 29-210
Atlanta, GA 30303-3142
(404) 657-9761 MAIN
(404) 657-1123 FAX

GEORGIA DEPARTMENT OF HUMAN SERVICES

TANF Unit
2 Peachtree Street
Suite 21-202
Atlanta, GA 30303-3142
800-869-1150

www.dhs.georgia.gov

State Medicaid Policy Unit

2 Peachtree Street
Suite 21-492
Atlanta, GA 30303
800.869.1150

Georgia Department of Human Services

Childcare and Parent Services Section

Two Peachtree St., N.W.
Suite 21-293
Atlanta, GA 30330

GEORGIA DEPARTMENT OF HUMAN SERVICES

GEORGIA DEPARTMENT OF HUMAN SERVICES

Vivian Egan

DFCS Legal Services
404-657-5138

www.dhs.georgia.gov

WWW.OSAH.GA.GOV


Q&A