

TO BE RESCINDED

173-39-07

Appeal of denial of certification and proposed disciplinary actions.

(A) Any request for a hearing made as the result of notice issued pursuant to rule 173-39-06 of the Administrative Code must be made in writing, must clearly identify both the provider involved and the proposed action that is being contested, and must be mailed or delivered to ODA within thirty calendar days of the mailing of the notice.

(1) If a request for a hearing is mailed to ODA, the request is deemed to have been made as follows:

(a) If the request is mailed by certified mail, the request is deemed to have been made as of the date stamped by the United States postal service on its receipt form.

(b) If the request is mailed by regular United States mail, the request is deemed to have been made as of the date of the postmark appearing upon the envelope containing the request.

(c) In those cases where a postmark is illegible or fails to appear on the envelope, the request is deemed to have been made as of the date of its receipt by ODA as evidenced by the agency's time stamp.

(2) If a request for a hearing is mailed or personally delivered to a party or address other than ODA, the request is deemed to have been made as of the date of its receipt by ODA as evidenced by ODA's time stamp.

(3) If a request for a hearing is personally delivered to ODA, the request is deemed to have been made as of the date of its receipt as evidenced by ODA's time stamp.

(4) If a request for a hearing is made by facsimile transmission or by electronic mail, the request is deemed to have been made as of the date of its receipt as evidenced by the receipt date generated by the facsimile transmission or as shown on the electronic mail received by ODA.

(B) If a provider that has been proposed for a disciplinary action fails to request a hearing, or if the request is not timely, ODA will issue a final and binding order of adjudication adopting and ratifying the allegations contained in the original notice.

Effective:

Five Year Review (FYR) Dates: 11/28/2018

Certification

Date

Promulgated Under: 119.03

Statutory Authority: 173.01, 173.02, 173.391, 173.52, 173.522, 173.54,
173.543

Rule Amplifies: 173.39, 173.391, 173.52, 173.522, 173.54, 173.543; 42
C.F.R. 441.352

Prior Effective Dates: 03/31/2006, 01/01/2013