

173-3-09

Appeals.

(A) Introduction: Each AAA and ODA, subject to the conditions specified in the procedures below, shall honor all written request for appeal hearings that are submitted by providers against whom an AAA has taken an adverse action. (An appeal hearing under this rule is not an adjudication hearing under Chapter 119 of the Revised Code.)

(B) Appeal to the AAA:

(1) Written process: Each AAA shall maintain in writing a process that allows a provider to appeal an adverse action related to a provider agreement funded with Older Americans Act funds.

(2) Final AAA decision: An AAA that conducts an appeal hearing shall forward a copy of the provider's written request for the appeal hearing and a copy of the AAA's final decision on the matter to ODA no later than five business days after the date the AAA renders its final decision.

(C) Appeal to ODA:

(1) AAA first: ODA shall only honor a request for an appeal hearing before ODA if the provider has fully complied with the written process for appealing an adverse action by the AAA that committed the adverse action and that AAA has rendered its final decision on the appeal.

(2) Request a hearing: To request a hearing before ODA, the provider shall submit a written request to ODA's director via certified mail no later than fifteen business days after the date the AAA renders its final decision. In the request, the provider shall describe the adverse action he/she is appealing and why he/she believes the AAA's decision on the matter is inappropriate.

(3) Processing a request: After ODA receives the request for an appeal hearing, ODA shall, in a timely manner, schedule a hearing and select a hearing officer to preside over the hearing. ODA shall schedule the hearing no later than thirty days after the date that ODA receives the provider's request for a hearing. ODA shall notify the provider and the AAA whose final decision the provider is appealing of the date, time, and location of ODA's appeal hearing.

(4) Hearing process:

(a) The hearing officer shall afford an adequate opportunity for both the provider and the AAA to present their positions and provide evidence, but may limit or terminate the discussion/testimony if:

(i) The provider or the AAA is unruly or combative;

(ii) The provider's or AAA's discussion/testimony is unnecessarily

redundant:

(iii) The provider or the AAA negotiate a written agreement that resolves the issue(s) that prompted the hearing; or,

(iv) The provider, in a written statement, withdraws its request for the hearing.

(b) The hearing officer shall make an audio recording of the hearing or ODA shall pay a court reporter to record the hearing.

(5) Final ODA decision: The hearing officer shall review the testimony or evidence collected at the hearing and shall make a written recommendation to ODA regarding whether the AAA's action was appropriate. ODA shall render its final decision on the appeal no later than thirty business days after the date of the hearing and shall send a copy of the decision, and the rationale for the decision, to the provider and the AAA.

(D) As used in this rule, "adverse action" means an AAA's action concerning a particular provider to not award a provider agreement to that provider; to prematurely terminate a provider agreement with that provider; or to not renew a multi-year provider agreement with that provider for the second, third, or fourth year of the provider agreement.

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CERTIFIED ELECTRONICALLY

Certification

02/09/2009

Date

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Rule Amplifies: 173.392; Section 212 of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006