

173-3-09

**Older Americans Act: administrative hearings for adversely-affected providers.**

## (A) Introduction:

- (1) A provider may request an administrative hearing ("hearing") to appeal any adverse action that an AAA has taken against the provider.
- (2) AAAs and ODA shall honor all written or emailed hearing requests subject to the conditions in this rule.
- (3) A hearing under this rule is not an adjudication hearing under ~~Chapter~~ Chapter 119 of the Revised Code.

## (B) AAA-level hearings:

- (1) ~~Written process:~~ Process: Each AAA shall ~~maintain in writing~~ publish on its website or in a document that is readily accessible by providers ~~its process that allows a for any provider to appeal (in writing or email)~~ an adverse action related to an AAA-provider agreement ("~~agreement~~") (agreement) paid, in whole or in part, with Older Americans Act funds.
- (2) Final AAA decision: An AAA that conducts an administrative hearing shall forward ~~a copy of (in writing or email)~~ the provider's ~~written~~ request for the hearing and ~~a copy of~~ the AAA's final decision on the matter to ODA no later than five days after the date the AAA renders its final decision. If the fifth day falls on a weekend or legal holiday, ~~as defined in section 1.14 of the Revised Code~~, the deadline is extended to the day immediately following the fifth day that is not on a weekend or legal holiday.

## (C) ODA-level hearings:

- (1) AAA first: ODA shall only honor a request for an administrative 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 if 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~~ A provider may request to ODA's director a hearing from ODA (in writing or email) if it does so no later than fifteen days after the date the AAA renders its final decision. In the request, the provider shall describe the adverse action the provider is appealing and why the provider believes the AAA's decision on the matter was inappropriate. If the fifteenth day falls on a weekend or legal holiday, ~~as defined in section 1.14 of the Revised Code~~, the deadline

is extended to the day immediately following the fifteenth day that is not on a weekend or legal holiday.

(3) Scheduling a hearing: After ODA receives the request for an administrative hearing, ODA shall, in a timely manner, schedule a hearing and select a hearing officer to preside over the 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 under any one or more of the following conditions:

(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 and~~ the AAA ~~negotiate a written agreement entered into a settlement that resolves~~ resolved the adverse action(s) that prompted the hearing.

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

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

(c) The hearing officer shall review the testimony or evidence collected at the hearing, then transmit (in writing or email) the testimony, evidence, and the hearing officer's recommendations to ODA regardless of whether the AAA's action was appropriate.

(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 days after the date of the hearing and shall send a copy of issue (in writing or email) the decision; and the rationale for the decision; to the provider and the AAA. If the thirtieth day falls on a weekend or legal holiday, as defined in section 1.14 of the Revised Code, the deadline is extended to the day immediately following the thirtieth day that is not on a weekend or legal holiday.~~

(D) Hearings vs. court cases:

- (1) A provider may seek redress from a court without waiting for the final decision of an AAA-level hearing or ODA-level hearing.
  - (2) If a provider enters a lawsuit against the AAA or ODA, the AAA or ODA may cease continuing with any in-progress hearing that the provider requested from the AAA or ODA.
- (E) As used in this rule, "adverse action" means an AAA's action concerning a particular provider to not award an agreement; to not renew a renewable agreement; to prematurely terminate an agreement; or to terminate a multi-year agreement for the agreement's second, third, or fourth year.

Effective:

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Certification

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Date

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