

5101:6-50-01 **Chapter 119. hearings: definitions and scope of applicability.**

(A) The following definitions apply to rules 5101:6-50-01 to 5101:6-50-09 of the Administrative Code.

(1) "~~Affected individual party~~" means a person whose interests are subject to an adjudication by ODJFS including providers and licensees.

(2) "Appellant" means an affected ~~individual party~~ who has requested an adjudication hearing pursuant to Chapter 119. of the Revised Code ~~or a county social services agency that has appealed a department action in accordance with division (C) of section 5101.24 of the Revised Code.~~

(3) "Contract" means any agreement through which ~~ODHS~~ ODJFS purchases goods or services from a vendor.

(4) "~~County social service agency~~" means ~~a county department of human services, child support enforcement agency, or a public children services agency that is the subject of an action taken by ODHS under division (B) of section 5101.24 of the Revised Code and has appealed in accordance with division (C) of section 5101.24 of the Revised Code.~~

(5)(4) "Department" means the Ohio department of ~~human services~~ job and family services.

(6)(5) "Depository agent" means the official mailing address of the office of legal services of ~~ODHS~~ ODJFS for the purpose of receiving correspondence or filings for any hearing held under authority of Chapter 5101:6-50 of the Administrative Code.

(7)(6) "Director" means the director of ~~ODHS~~ ODJFS or the director's designee.

(8)(7) "Final fiscal audit" means a medicaid report of examination ~~issued by the ODHS surveillance and utilization review section, or~~ a medicaid final settlement, or a medicaid or crippled children's program hospital final settlement issued proposed for adjudication by ODHS ODJFS.

(9)(8) "Grant" means an award of funds by ~~ODHS~~ ODJFS to public agencies or private nonprofit corporations which does not include the purchase or lease of services, materials or supplies for ~~ODHS~~ ODJFS.

(10)(9) "Hearing" means a hearing held by ~~ODHS~~ ODJFS in compliance with sections 119.06 to 119.13 of the Revised Code.

- (11)(10) "License" means any license, permit, certificate, commission, or charter issued by ~~ODHS~~ODJFS. License does not include any arrangement whereby a person, institution, or entity furnishes medicaid services under a provider agreement with ~~ODHS~~ ODJFS pursuant to Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.
- (12)(11) "Licensee" means any person, institution or entity, governmental or non-governmental, that furnishes services under a license issued by ~~ODHS~~ ODJFS pursuant to statute.
- (13)(12) "~~ODHS~~" "ODJFS" means the Ohio department of ~~human services job and family services~~.
- (14)(13) "Order" means any final adjudication of facts or sums in controversy in any hearing conducted under the authority of Chapter 5101:6-50 of the Administrative Code before ~~ODHS~~ ODJFS and any final disposition or directive of the director as regards the rights, duties, privileges, benefits, legal relationships, jurisdictional status, or standing of any appellant.
- (14) "Person" means a person, firm, corporation, association, or partnership.
- (15) "Provider" means any person, institution or entity, governmental or non-governmental, that furnishes medicaid services under a provider agreement with ~~ODHS~~ ODJFS pursuant to Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.
- (16) "Provider agreement" means a contract between ~~ODHS~~ ODJFS and a provider of medical services and supplies pursuant to rules contained in Chapter 5101:3-1 of the Administrative Code.
- (B) Application of procedures contained in Chapter 5101:6-50 of the Administrative Code

Chapter 5101:6-50 of the Administrative Code prescribes the procedures to be followed in all hearings held before ~~ODHS~~ ODJFS pursuant to sections 119.06 to 119.13, 5103.12 ~~5103.34~~, 5104.04 and 5111.06 of the Revised Code. ~~Chapter 5101:6-50 of the Administrative Code also prescribes the procedures to be followed in hearings held before ODHS pursuant to section 5101.24 of the Revised Code when ODHS and the county social services agency fail to agree upon dispute resolution procedures within sixty days of the appeal requested by the county social services agency.~~ The provisions of Chapter 5101:6-50 of the Administrative Code are to be interpreted and construed to achieve their general purpose of providing

orderly and fair procedures for conducting hearings before ~~ODHS~~ ODJFS.

(C) Actions that do not provide hearing rights under this chapter

Unless otherwise noted, Chapter 5101:6-50 of the Administrative Code does not apply to circumstances which include, but are not limited to, the following:

- (1) Acts of the director or other officers of ~~ODHS~~ ODJFS which are ministerial in nature.
- (2) Actions of ~~ODHS~~ ODJFS which are subject to hearings under an ~~Administrative~~ administrative review procedure other than that provided by Chapter 119. of the Revised Code.
- (3) Refusal to enter into a provider agreement or suspension of, termination of, or non-renewal of an existing provider agreement whenever the terms of the provider agreement require the provider to have a license, permit, certificate, or certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than ~~ODHS~~ ODJFS, and the license, permit, certificate, or certification has been denied or revoked by such official, board, commission, department, division, bureau, or other agency of state or federal government.
- (4) The provider agreement is denied, terminated, or not renewed pursuant to division (C) of section 5111.03 of the Revised Code.
- (5) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program.
- (6) The provider agreement is denied, terminated, or not renewed due to the provider pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program.
- (7) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.
- (8) Transference of an open-end provider agreement to a closed-end agreement as set forth in paragraph (D) of rule 5101:3-1-55 of the Administrative Code.

- (9) Rate calculations, interim settlements, overpayments, duplicate payments, payments for services not rendered, denied claims and claim adjustments which may be reconsidered by the appropriate department staff upon written request by the affected provider to the director of ~~ODHS~~ ODJFS as set forth in paragraph (B) of rule 5101:3-1-57 and rules 5101:3-2-0712, 5101:3-2-40, and 5101:3-2-42 of the Administrative Code.
- (10) Reviews, notices of operational deficiency, requests for records, and audits that do not result in an adjudication order as provided in rule 5101:3-1-27 of the Administrative Code.
- (11) Actions involving type B child day-care homes and in-home child day-care ~~aids~~ aides pursuant to Chapter 5104. of the Revised Code.
- (12) Hearings, authorized by section 5101.35 of the Revised Code and rules in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, provided to applicants for or recipients of benefits under Ohio works first, prevention, retention or contingency program, temporary assistance for needy families, food stamps, medicaid, social services, adoptions, disability assistance, residential state supplement payments, Titles IV-A, IV-B, IV-D, IV-E, XIX, XX, or XXI of the "Social Security Act", 49 Stat. 620 or other assistance programs who are aggrieved because of the actions of ~~ODHS~~ ODJFS, other state agencies, or of a county department of ~~human~~ job and family services, child support enforcement agency, a public children services agency, or other county agencies.
- (13) ~~Disputes~~ Except as provided in paragraph (D) of this rule, disputes involving a Title XX social services contract entered into between ~~ODHS~~ ODJFS or a county department of ~~human~~ job and family services public children services agency, or a child support enforcement agency and a contractor of services.
- (14) Personnel action appeals of employees of ~~ODHS~~ ODJFS or of a county department of ~~human~~ job and family services, public children services agency or child support enforcement agency.
- (15) Hearings held pursuant to rules 5101:3-2-0712, 5101:3-2-40 and 5101:3-2-42 of the Administrative Code.
- (16) Disputes involving the issuance, denial or termination of a contract, grant or an interagency agreement issued by ~~ODHS~~ ODJFS or a protest filed with regard to a request for proposals issued by ~~ODHS~~ ODJFS.

- (17) ~~Except as specifically authorized by paragraph (E) of this rule, administrative~~ Administrative actions taken by ~~ODHS ODJFS~~ that involve program administration and funding affecting county departments of ~~human job and family~~ services, public children services agencies or child support enforcement agencies.
- (18) Appeals and disputes arising out of any actions under sections 5101.20, 5101.201, 5101.21, 5101.213, 5101.216, 5101.22, 5101.221, 5101.24, 5101.241, or 5101.242 of the Revised Code.
- (19) Actions or disputes involving the use or access to funds administered under the "Workforce Investment Act of 1998", 112 Stat. 936, 239 U.S.C.A. 2801, as amended, the "Wagner-Peyser Act." 48 Stat. 113 (1933), 29 U.S.C.A. 49, as amended, and Chapters 4141. and 6301. of the Revised Code, or any other funds for which the United States department of labor is responsible for direct or indirect oversight.
- (20) Actions or disputes arising under Chapter 5110. of the Revised Code.
- (D) Actions that provide hearing rights under this chapter

Except as provided in paragraph (C) of this rule, those actions of ~~ODHS ODJFS~~ that afford the right to a hearing pursuant to ~~ODHS ODJFS~~ authority provided in Chapter 119. of the Revised Code include the proposal of the director to:

- (1) Refuse to enter into a provider agreement.
- (2) Suspend, terminate, or refuse to renew an existing provider agreement.
- (3) Take any action based upon a final fiscal audit.
- (4) Enter into a provider agreement.
- (5) Refuse to issue a license, whether it is a renewal or a new license, unless a hearing was held prior to the refusal to issue such license.
- (6) Suspend or revoke a license.
- (7) Require a person to obtain a license when the person claims that the law does not impose such a requirement, except when ~~ODHS ODJFS~~ pursues injunctive relief through division (H) of section 5104.04 of the Revised Code.

- (8) Terminate, refuse to enter or renew an agreement with a public children services agency or private child caring agency under section 5103.12 of the Revised Code.

~~(E) Application of this chapter to a county social services agency~~

~~The right to a hearing pursuant to ODHS authority under Chapter 119. of the Revised Code is also available to a county social service agency when all of the following apply:~~

- ~~(1) ODHS takes an action against a county social service agency pursuant to division (B) of section 5101.24 of the Revised Code.~~
- ~~(2) The county social service agency submits a written request to ODHS for an administrative review in accordance with division (C) of section 5101.24 of the Revised Code.~~
- ~~(3) The request for an administrative review is received by ODHS not later than forty five days after ODHS mails the notice of the action to the agency.~~
- ~~(4) The county social service agency and ODHS fail to enter into a written agreement within sixty days after the agency requests an administrative review setting forth the dispute resolution procedures to be used to resolve the dispute.~~

Effective: 04/01/2004

R.C. 119.032 review dates: 01/08/2004 and 04/01/2009

CERTIFIED ELECTRONICALLY

Certification

03/22/2004

Date

Promulgated Under: 119.03
Statutory Authority: 5101.02, 5101.24
Rule Amplifies: 119.06, 119.09, 5101.24,
5103.12, 5104.03, 5104.04,
5111.02, 5111.06
Prior Effective Dates: 1-1-83; 1-10-87; 10-1-87;
12-1-87 (Emer.); 2-16-88;
2-1-99