



## Ohio Administrative Code

### Rule 5101:6-5-01 State hearings: procedures prior to the state hearing.

Effective: April 1, 2023

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(A) The bureau of state hearings (BSH) shall handle the receipt and processing of the request for a state hearing. When the hearing request is made to the local agency, the local agency shall date stamp the request, retain a copy, and mail or transmit the request to "ODJFS, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825," or fax to 614-728-9574 or email to [bsh@jfs.ohio.gov](mailto:bsh@jfs.ohio.gov), within one business day from the date of receipt.

(B) The local agency proposing the action about which the individual requested the state hearing shall complete an appeal summary. The summary consists of a prescribed form (the JFS 04067 "Appeal Summary" , or for a medicaid managed care plan or "MyCare Ohio" plan the ODM 01959 "Appeal Summary for Managed Care Plans" ) and attachments, and is intended to provide a summary of all facts and documents relevant to the issue under appeal sufficient to demonstrate the basis for the local agency's action.

The local agency shall file its appeal summary with the bureau of state hearings at least three business days prior to the scheduled hearing date, and also make it available to the individual or authorized representative at least three days prior to the hearing for inspection. Failure to do so may be considered good cause for postponing or continuing the hearing if the individual has been materially disadvantaged by the failure.

#### (C) County conferences

(1) To avoid unnecessary state hearings, the local agency shall provide an opportunity for the individual to discuss and/or resolve disagreements with the local agency's actions or inaction.

(2) When an individual requests a county conference, the local agency shall convene a conference presided over by the local agency's director or a designee. Both the local agency and the individual may bring whomever each reasonably wants to be at the conference. The issue to be decided by the presiding person shall be whether the local agency can show, by a preponderance of the evidence,



that its action or inaction was in accordance with applicable regulations. If not, the presiding person shall retract the notice of adverse action and/or decide the question of the individual's entitlement to benefits or arrange to make that determination as quickly as possible. The outcome of the county conference shall be recorded, in writing, in the case record.

(3) The individual need not have a county conference to have a state hearing, nor does the holding of a county conference, or the individual's failure to appear for one, diminish the right to a state hearing. A state hearing must still be held unless a resolution is reached at the county conference and the individual withdraws the hearing request in writing. Any such withdrawal shall be signed and dated by both the individual and the local agency representative, shall clearly set forth the resolution upon which the withdrawal is based, and shall be forwarded to the assigned hearings section within two business days. The local agency shall give one copy of the withdrawal to the individual and retain one copy in the case file.

(4) The local agency shall schedule a county conference for assistance groups contesting a denial of expedited supplemental assistance nutrition program(SNAP) within two business days, unless the assistance group requests that the county conference be scheduled later or states that it does not wish to have a county conference.

(D) Managed care plan (MCP) and "MyCare Ohio" plan process. Upon notification from the BSH that a member has requested a state hearing, the MCP or MCOP shall notify BSH within three calendar days whether or not the member has exhausted the plan appeal resolution process, as described in rules 5160-26-08.4 and 5160-58-08.4 of the Administrative Code.

(E) Legal representation

All parties have the right to be represented by legal counsel at the state hearing. The local agency shall provide the individual with information regarding free legal services in the community, as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code and upon request from the appellant, via the JFS 04059 "Explanation of State Hearing Procedures." The local agency may provide legal services through a social services contract.

(F) Access to documents and regulations



- (1) The individual and authorized representative shall be provided reasonable time before the date of the hearing, as well as during the hearing, to examine the contents of the case file, as well as all records and documents to be used by the local agency at the hearing, except for confidential information protected from release.
  - (2) If the individual or authorized representative requests case record documents that are relevant to the issue under appeal, the local agency shall provide one copy of each such document at no cost. The authorized representative must provide the individual's signed authorization to the local agency before obtaining a copy of case record material.
  - (3) Current program manuals shall be made available to the individual or authorized representative for review at the local agency.
  - (4) The local agency's failure to provide or allow access to the information, at least three days prior to scheduled hearing, as required by this paragraph, may be the basis for postponing or continuing the hearing.
  - (5) Confidential material protected from release, and other documents or records that the individual will not have an opportunity to contest or challenge, shall not be presented at the hearing nor affect the hearing officer's decision.
  - (6) When the hearing involves work registration or employment and training, the individual shall also be allowed to examine the employment and training component case file, except for confidential information (which may include test results) that the agency determines should be protected from release.
  - (7) When the hearing involves a managed care plan or "MyCare Ohio" plan, the provisions of paragraphs (F)(1), (F)(2), (F)(4), and (F)(5) of this rule shall apply to the managed care plan and "MyCare Ohio" plan, its subcontracting providers, and all relevant records.
- (G) Subpoenas



(1) Both the local agency and the individual or authorized representative may request in writing, at least five calendar days prior to the date of the state hearing, that ODJFS issue a subpoena to compel the presence of documents and witnesses that would not otherwise be available and that are essential to the requesting party's case.

(2) The hearing authority shall make the determination as to whether such subpoenas shall be issued and whether subpoenaed individuals shall participate in person or by telephone. If a subpoena request is denied, the reason for denial shall be clearly explained in the state hearing decision.

(3) Subpoenas shall be served by mail. The payment of witness fees for attendance and travel is not required.

(4) When the hearing involves a managed care plan or "MyCare Ohio" plan, the managed care plan or "MyCare Ohio" plan shall have the same subpoena rights as the local agency.

#### (H) Transportation

The local agency may provide transportation to the individual through a social services contract where a valid need for transportation exists.

#### (I) Translations of hearing decisions

If an individual or authorized representative requests that a hearing decision be translated, the bureau of state hearings shall provide a translation in accordance with the "Services LEP Drafting Guidelines" (rev. 5/2008) at <https://jfs.ohio.gov/civilrights/pdf/LEP-Plan-Drafting-Guidelines-2.pdf>

#### (J) Interpreters for hearings

If an individual or authorized representative has limited proficiency in English or communicates using sign language, the local agency shall provide an interpreter for the individual or authorized representative, at the request of the individual, authorized representative, or hearing authority. The bureau of state hearings will work with all local agencies to ensure interpreter services at a reasonable cost to the local agencies when it comes necessary to utilize such services.



(K) Group hearings

(1) The bureau of state hearings may respond to a series of individual state hearing requests by scheduling a single group hearing. Requests may be consolidated only when individual issues of fact are not disputed and where related issues of state or federal law are the sole issues being raised.

(2) In all group hearings, the rules governing individual hearings must be followed. Each individual shall be permitted to present his or her own case or have his or her case presented by an authorized representative.

(3) Individuals scheduled for a group hearing shall be notified of the group hearing procedures via the JFS 04059, along with the scheduling notice.