



## Ohio Administrative Code

### Rule 5101:6-6-04 State hearings: telephone hearings.

Effective: March 1, 2019

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(A) The bureau of state hearings may schedule some or all hearings as telephone hearings, following the procedures outlined in this paragraph.

(1) Telephone hearings shall normally be conducted with all participants except the hearing officer present at the local agency office. The hearing officer shall conduct the hearing, as described in rule 5101:6-6-02 of the Administrative Code, by telephone from the hearing officer's office or other site suitably equipped with the proper telephone equipment.

When a telephone hearing concerns one of the medical determinations listed in paragraph (C)(2) of rule 5101:6-6-01 of the Administrative Code, the agency representative shall participate in the hearing as described in that paragraph.

(2) Scheduling telephone hearings shall be done in accordance with the following:

(a) If the hearing is to be scheduled as a telephone hearing, the JFS 04002 " Notice to Appear for Scheduled Hearing" (rev. 1/2015) or its computer-generated equivalent shall inform the individual of that fact and that he or she may choose to have a face-to-face hearing instead. The JFS 04002 is generated in the hearings and appeals tracking system (HATS X).

(b) The JFS 04002 shall include a telephone number which the individual can call free of charge to request a face-to-face hearing and shall explain that a request for a face-to-face hearing shall be made no later than three days prior to the date of the hearing.

(c) Hearings initially scheduled as telephone hearings that are rescheduled as face-to-face hearings at the individual's request shall be rescheduled in accordance with rule 5101:6-6-01 of the Administrative Code.

(3) Documents shall be made available to the hearing officer for inclusion in the official hearing



record as follows:

(a) The agency shall be responsible for submitting an appeal summary with all relevant documents to the appropriate hearings office as required by rule 5101:6-5-01 of the Administrative Code. In the case of a hearing in which the sole issue is that of a disability determination or disability onset date, the disability determination area (DDA) representative shall not routinely participate in the hearing. A copy of the appeal summary shall be sent to the appellant prior to the hearing date, explaining that the appeal summary shall stand in place of DDA participation, and if the appellant chooses to have a DDA representative participate in the hearing, a request, either in writing or orally, can be made to the hearing authority and arrangement for participation shall be made.

(b) The individual shall be responsible for providing any documents he or she wants considered to the appropriate hearings office prior to the hearing. The local agency shall assist in copying and sending such documents if the individual requests.

(c) If, during the hearing, it is determined that not all necessary documents have been received by the hearing officer, the agency shall transmit the additional documents to the hearing officer, so that they may be examined by the hearing officer before the conclusion of the hearing.

(d) If it is not possible to transmit the additional documents to the hearing officer before the conclusion of the hearing, the record shall be held open until they are received. The individual shall be given the option of having the hearing reconvened when the additional documents are received.

Once the additional documents are received and reviewed, the hearing officer may also decide to reconvene the hearing to resolve questions which arise upon review.

(e) Documents that were not available for the individual to review during the hearing may not be submitted to the hearing officer after the hearing, unless the individual is provided the opportunity for rebuttal as required by rule 5101:6-6-02 of the Administrative Code.

(4) For all hearings scheduled as telephone hearings, the local agency shall be responsible for providing a suitable hearing room equipped with a speaker telephone capable of clear, recordable transmission of the testimony of the participants.



(5) The hearing officer is responsible for ensuring that the hearing is recorded clearly so that a complete transcription may be made if required.

(6) All other hearing procedures contained in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code apply equally to telephone hearings.

(B) The following procedures apply when a medical determination unit or other party is to participate in the hearing by telephone.

(1) The hearing office shall be responsible for the following:

(a) Notifying the local agency that the hearing shall involve telephone participation, so that a suitable hearing room can be provided.

(b) Notifying the medical determination unit or other party of the date and time of the hearing and obtaining the telephone number where the representative can be reached on the day of the hearing.

(2) The local agency shall be responsible for the following:

(a) Providing a suitable hearing room.

(b) Providing a staff member to attend the hearing and to bring the individual's case file, including, if applicable, the appeal summary and supporting documentation provided by the medical determination unit.

(3) When the individual, local agency staff member, and hearing officer are present and ready to begin the hearing, the hearing officer shall call the medical determination unit or other party, assure that the speaker phone and tape recording equipment are working properly, and begin the hearing.

(4) The hearing shall be conducted in accordance with rule 5101:6-6-02 of the Administrative Code.

(5) The hearing officer shall be responsible for assuring that new, previously unavailable evidence is



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described in sufficient detail for the individual participating by telephone to offer rebuttal.