

Office of Administrative Hearings (OAH) Procedures Transmittal		Transmittal Number: 05-20	
		Date: August 12, 2005	
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Distribution:		Subject: Family Eviction Prevention Supplement (FEPS) Hearings for NYC HRA Clients	
ALB OAH Staff <input checked="" type="checkbox"/>	UPS ALJs <input type="checkbox"/>		Upstate LDSS <input type="checkbox"/>
	SUP ALJs <input type="checkbox"/>		
NYC OAH Staff <input checked="" type="checkbox"/>	NYC ALJs <input checked="" type="checkbox"/>		NYC Agencies <input checked="" type="checkbox"/> (HRA Only)
	SUP ALJs <input checked="" type="checkbox"/>		

This transmittal is being issued to provide instructions for Communications Intake Unit (CIU) staff and NYC Calendar Management staff for NYC cases involving the Family Eviction Prevention Supplement (FEPS) which is provided as an enhanced supplement for housing to PA clients in New York City. This program is a successor to the previous Jiggetts-related housing allowance supplement program. It will also set forth the procedure for the FEPS administering agency to utilize in requesting a waiver of appearance and submitting documents in lieu of appearance into the fair hearing record.

Unlike Jiggetts cases, FEPS issues are hearable and are being scheduled on the EA calendar with an EA category and 686 as the issue code. Due to system considerations, on an interim basis, NIM will be used in the first agency field and FEPS in the secondary agency field, as indicated below:

Agency: **NIM/FEPS** (Until further notice; then only FEPS to be used)
Category: **EA**
Sub-category: None
Action: REDU/DISC/DENY/INAD
Issue code: **686 SHELTER SUPPLEMENT PROGRAMS**
(Ex. NYC Programs--Housing Stability Plus, Family Eviction Prevention Supplement--FEPS) [**Other issues should not be added.**]
Aid Status: As appropriate

The fair hearing should be manually scheduled on the EA calendar, similar to the scheduling of regular EA issues. Use of the above coding will result in notification to:

FEPS
Evelyn Miller
New York State Office of Temporary and Disability Assistance
40 North Pearl Street , 11th Floor
Albany, New York 12243
(518) 474-9304
Evelyn.Miller@otda.state.ny.us

who will prepare and submit the evidentiary packet. The hearings will be handled without appearance on the part of the agency, similar to managed care and OHSM cases. A suggested format is attached for the agency to submit requests for such waivers of appearance and supporting documentary evidence.

The Office of Administrative Hearings has responsibility for scheduling and holding fair hearings on Family Eviction Prevention Supplement issues. Pursuant to 18 NYCRR 358-4.3(c) (1), the FEPS-administering agency (hereinafter referred to as “the agency”) can request a waiver of personal appearance and submit to this office, prior to the hearing date, a waiver request and evidentiary packet. Waiver requests will be reviewed and granted on a case-by-case basis. At this time, “blanket” waivers of appearance will not be granted; however, if the agency does not receive a telephone call from this office prior to the hearing date indicating otherwise, it will be presumed that a waiver has been granted.

It should be noted that even in situations where a waiver of appearance has been granted, the Administrative Law Judge may require the testimony of an agency representative at the time of the hearing. It will, therefore, be necessary that a primary contact person be available (and a back-up contact be designated to be available) during the course of the hearing to accept a telephone call from the Administrative Law Judge. The primary and back-up contact persons' name and telephone number should be included on the request for waiver. The waiver request should also contain the fair hearing number, date of hearing, and a summary of the specific facts relevant to the issue under review at the hearing. A proposed format for requesting a waiver of appearance is attached as an example.

For proper inclusion in the fair hearing record, the waiver request and evidentiary packet should be submitted immediately upon notification of the hearing date, as follows:

The original waiver request and summary must be faxed to the Albany Central Office fax number listed below. It is essential that the packets are received in the Albany Central Office to allow sufficient time for forwarding to the hearing site—since these hearings are scheduled to the EA calendar within three to ten calendar days, allow at least one business day prior to the hearing date.

Fax to the attention of **FEPS** at:

Fax Number: (518) 473-6735

When faxing requests, please include on the fax transmittal the name of the appellant, the fair hearing number, the date of the hearing, and the number of pages contained in each package to assist in matching the submission to the appropriate fair hearing file.

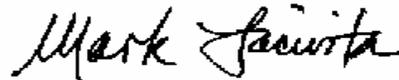
Please note, it is the responsibility of the agency to provide a copy of the waiver request and evidentiary packet to the appellant and/or representative, in addition to that required above, if requested. Also, when the agency representative appears in person, it is essential that two copies of the evidence packet are brought to the hearing, one for the Administrative Law Judge and one for the client. If a telephone hearing is being conducted, the agency **MUST** provide a copy of the waiver request and evidentiary packet to the appellant and/or representative in advance of the hearing.

Upon receipt of the waiver request and evidentiary packet from the administering FEPS agency representative, OAH staff will process it as follows:

Staff in the Central Distribution Unit in Albany will sort the waiver request/evidentiary packet into the FEPS folder in Faxinator. Staff in the Calendar Management Unit in NYC will print two copies (one for the file and one for the appellant/representative), will NAME the fax in Faxinator and STORE it. The process of storing it automatically ensures document imaging into Panagon. Both printed copies are then inserted into the file for use at the hearing. A notation must also be entered in the Comment section (PFREQ3) on the Fair Hearing Information System (FHIS) as follows: "Packet received from FEPS (E. Miller) by fax _____ (date)." Initials/Date.

IT IS IMPORTANT that staff DO NOT change the Agency field NIM to the actual center at any time during the scheduling or hearing process due to current system configurations that will create problems unless they remain coded EXACTLY in the manner set forth here. Therefore, any cases with NIM in the Agency field with a category of EA and issue Code 686 should not be amended without consultation with a supervisor.

If there are any questions with respect to this transmittal, you may contact your supervisor or Susan Fiehl at (518) 473-4779 or via email susan.fiehl@otda.state.ny.us.



Mark Lacivita, Director of Administration
Office of Administrative Hearings

SAMPLE WAIVER REQUEST

Office of Administrative Hearings
NYS Office of Temporary & Disability Assistance
P.O. Box 1930
Albany, New York 12201-1930

Re: Family Eviction Prevention Supplement (FEPS)
Appellant's Name _____
Fair Hearing Number: _____
Hearing Date: _____

To Whom It May Concern:

This information is submitted with respect to the above-mentioned fair hearing and is submitted in lieu of appearance at the hearing. A personal appearance is not necessary because _____

_____.

In accordance with the requirements contained in 18 NYCRR 358-4.3(c) (1), please consider this as this agency's request to present evidence in the form of written documentation in lieu of appearing at the hearing. Should the content of this document raise issues requiring further elaboration or cross-examination during the course of the hearing, please contact:

_____ (name) at _____ (telephone number)

-or-

_____ (name) at _____ (telephone number).

The following should be noted for the record:

(In this section, summarize the Agency's position relative to the issue under review at the hearing. Attach all appropriate documentation and submit within the timeframe required for information to be available on the scheduled date of the hearing.)

These facts, as presented, should be of assistance in your review of this case.

Sincerely,