

Office of Administrative Hearings (OAH)	Transmittal Number: 00-02
Procedures Transmittal	Date: February 9, 2000
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Distribution:	
ALB OAH Staff [x] UPS ALJs/ [x] Upstate LDSS [x]	Subject: Managed Care
SUP ALJs [x]	Waivers of Appearance
NYC Agencies [x]	(Instructions for MCOs)
NYC OAH Staff [x] NYC ALJs/ [x] (NMAP Only)	
SUP ALJs [x] MCOs [x]	

Please note, this transmittal is being re-released with some changes in the original instructions. The changes appear in bold.

This office has begun scheduling and holding fair hearings on Managed Care issues. Pursuant to 18 NYCRR 358-4.3(c)(1), the Managed Care Organization (MCO) 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 MCO 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 MCO 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 (Attachment A). 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:

Upstate Requests:	
Original waiver request and summary must be mailed or faxed to the Albany Central Office address or fax number listed below PLUS a copy must be mailed directly to the attention of the Administrative Law Judge at the hearing site (refer to Attachment B to obtain hearing location addresses):	
Mail Via Regular or Express Mail Or Fax To:	Mail Copy Via Express Mail To:
Ms. Joanne McGrath Communications Intake Unit Office of Administrative Hearings NYS Office of Temporary and Disability Assistance (OTDA) 40 North Pearl Street Albany, New York 12243	Appropriate Upstate Hearing Site (See attached address list) "Atten: Administrative Law Judge"
Fax Number: (518) 473-6735	

NYC Requests:

Original waiver request and summary must be faxed or mailed as follows:

Fax Number: (212) 417-4637 (Faxing is preferable)

If faxing is not possible, Express Mail directly to the address below:

Mr. Sebastian Addamo, Associate Counsel
Office of Administrative Hearings
New York State Office of Temporary
and Disability Assistance (OTDA)
80 Centre Street, Room 326, Third Floor
New York, New York 10013

When faxing Upstate and NYC 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 MCO to provide a copy of the waiver request and evidentiary packet to the appellant and/or representative, in addition to those required above.

It is anticipated that waivers will only be requested by MCOs on matters concerning clinical issues, since enrollment issues are handled by the local district, whose representative should expect to appear at the scheduled hearing.

If you have any questions regarding this transmittal, please contact Sue Fiehl at (518) 473-4779 or via e-mail at 90J029@dfa.state.ny.us.

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Mark Lacivita, Director of Administration
Office of Administrative Hearings

Attachments

SAMPLE WAIVER REQUEST

Ms. Joanne McGrath
Office of Administrative Hearings
NYS Office of Temporary & Disability Assistance
40 North Pearl Street
Albany, New York 12243

Re: Managed Care
Appellant's Name _____
Fair Hearing Number: _____
Hearing Date: _____

Dear Ms. McGrath:

This information is submitted with respect to the above-mentioned fair hearing and is submitted in lieu of appearance at the hearing. 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).

The following should be noted for the record:

(In this section, summarize the Managed Care Organization'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,