

Office of Administrative Hearings (OAH)		Transmittal Number: 97-43
Procedures Transmittal		Date: December 11, 1997
		Page: Page 1 of 2
Distribution:		Subject: NYCR Subcategory (Dispositions of Fair Hearing)
ALB OAH Staff [X]	UPS ALJs/ [X] Upstate LDSS [] SUP ALJs [X]	
NYC OAH Staff [X]	NYC ALJs/ [X] NYC Agencies [X] SUP ALJs [X] (NYC HRA Only)	

Effective November 13, 1997, the procedure outlined in OAH Transmittal 96-41 for NYC HRA Resolutions of Fair Hearing Requests was revised; this transmittal, therefore, supersedes OAH 96-41. In view of the current need to render a decision known as a "Disposition of Fair Hearing Request" for those cases in which the NYC HRA sends this office its clear, written confirmation that the action has been withdrawn or that the issue has been resolved, the following procedure will be followed:

Upon receipt of the HRA form, H.R.A. Action to Resolve Client's Fair Hearing Request (M-186Y attached), staff will commence the system work to render a Disposition of Fair Hearing Request. Initially, the HRA resolution form will be reviewed to determine whether the action to be disposed of is notice-based. This is signified by a checkoff-box on the HRA Resolution Form that indicates either:

- Settled Notice. Lost benefits restored. Not. Date _____ Effective _____
- Settled Notice. No benefits were lost. Not. Date _____ Effective _____

Either of these actions indicates that the agency has withdrawn its notice and agrees to restore all lost benefits. The HRA resolution form must reference a specific notice date and effective date. In certain situations, non-notice-based actions can be accommodated by this process when the resolution form indicates specific benefits that the client has requested which have been provided by the agency. The agency must clearly identify the dollar amount and date of issuance of such benefits.

If the hearing is already scheduled, heard, adjourned, or defaulted, i.e., in any scheduling status other than "S" (ready to be scheduled), no further action will be taken to interrupt the scheduling or issuance process. No Emergency Assistance (EA), NYC Employment Verification Review (NEVR), or NYC Department of Homeless Services (NDHS) issues will be handled by this process. In summary, if the HRA resolution form cites a specific notice-based action by referencing an actual notice/effective date and the case is in "S" scheduling status, or if the action pertains to certain non-notice-based INADEQUACY issues whereby the agency documents issuance of specific benefits that the client has requested and the case is in "S" scheduling status, the case will be given a subcategory of "NYCR" which interrupts the scheduling of the hearing and initiates the process that will generate a Disposition of Fair Hearing Request.

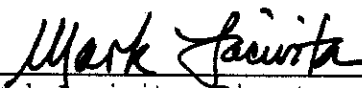
The input of subcategory "NYCR" onto FHIS triggers the automatic "scheduling" of the case, calendaring as "heard," and foldering as "file received," although a decision is rendered absent any hearing being held. The Scheduling Unit will prepare the files the following day. Based on the issue set forth on the resolution form, a script will be input on the Office Automation (OA) system to generate a Disposition of Fair Hearing Request. The Dispositions will then proceed through the regular issuance process and will be coded as **Outcome Reason Code 24**, "Agency Resolved Issue to Client Satisfaction. No Hearing Held." On the issuance screen, information as to whether the agency appeared and whether there is a case record, should be coded "Y."

If, after receiving a Disposition of Hearing, the appellant is dissatisfied or feels that any part of the agreement has failed to be implemented by the agency, the appellant's remedy is to pursue compliance with the Disposition through the OAH compliance process.

In all matters where a case appears to be a part of this "NYCR" process, any request by an appellant to have a withdrawn fair hearing reopened should be processed without delay. There may be occasions where an appellant has defaulted a hearing due to a belief that the agency has resolved the fair hearing issue; any requests for reopening defaulted hearings for this reason should be considered. All NYCR cases should, therefore, be viewed on a case-by-case basis (with appropriate supervisory intervention as warranted) to ensure that the appellant's due process rights are not impaired in any way.

It is no longer necessary to maintain statistics on these cases, since the use of the subcategory NYCR as well as the Outcome Reason Code "24" will allow for automatic data retrieval.

Any questions with respect to the NYCR process should be brought to the attention of your supervisor or to Sue Fiehl at 518-473-4779 or via e-mail 90j029.



Mark Lacivita, Director of Administration
Office of Administrative Hearings

Attachment

Form 186y
v. 11/28/97

H.R.A. Action to Resolve Client's Fair Hearing Request

To: ^{OTDA} NYS TADA Office of Administrative Hearings
P.O. Box 1930
Albany, N.Y. 12201-1930
Telephone (212) 417-8550 Fax (518) 473-6735

From: FH&C Section, ISC # _____

Copy to Client

Case Name _____

Address: _____

Case # _____ Fair Hearing# _____

Fair Hearing Request Date _____

Fair Hearing Issues(s) (Reduction/Discontinuance/Other) (PA/MA/FS):

We have taken the action(s) checked below to resolve the fair hearing request.

Settled notice. Lost benefits restored. Notice Date _____ Effective _____

Settled notice. No benefits were lost. Notice Date _____ Effective _____

No notice involved. Issue resolved. (Explain Below)

Other (Inadequacy, Denials) _____ (Explain Below)

Explanation of action(s):

Benefits issued retroactive from: _____ to _____

Signature: FH&C Staff Member

Print Name and Title

Date

Signature: FH&C Supervisor

Print Name & Title

Date