

Office of Administrative Hearings (OAH) Procedures Transmittal			Transmittal Number: 05-18
Distribution:			Date: July 19, 2005
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ALB OAH Staff <input checked="" type="checkbox"/>	UPS ALJs <input checked="" type="checkbox"/>	Upstate LDSS <input type="checkbox"/>	Subject: New Issue Code 930 “Proof of Mailing” Pursuant to the <u>Meachem v. Wing</u> Litigation
	SUP ALJs <input checked="" type="checkbox"/>		
NYC OAH Staff <input checked="" type="checkbox"/>	NYC ALJs <input checked="" type="checkbox"/>	NYC Agencies <input checked="" type="checkbox"/>	
	SUP ALJs <input checked="" type="checkbox"/>		

A new issue code has been created pursuant to requirements of the settlement in the Matter of Meachem v. Wing. Issue Code 930, Proof of Mailing for Client Claims of Non-Receipt of HRA Mailing, is to be used as follows:

Any request for a hearing where the appellant claims non-receipt or untimely receipt of an appointment letter or other written communication from HRA requiring some action by the applicant/recipient, such as an agency request for documents, including questionnaires, a notice to appear for an employment-related interview or recertification interview, etc. requires that the additional issue code 930 be added as a tracking code. Inasmuch as 930 will be used solely as a tracking code, the Action code should be noted as INAD and the Aid Status code should be NA.

Agency: All NYC Agencies
Category: Any Category
Action: **INAD**
Aid Status: **NA**
Issue Code: **930**

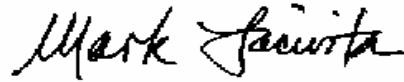
The primary issue for the hearing will most likely be a denial, discontinuance or reduction for a client’s failure to comply with an agency request requiring some action on the part of the client. In those circumstances where the appellant is claiming non-receipt of the agency mailing requiring that action, the request should reflect the 930 issue code in addition to the primary issue code. As an example, an appellant may claim, “They discontinued my assistance because I failed to go to a WEP appointment, but I never got the appointment notice.”

Where the claim of non-receipt of an agency communication is raised at the hearing (or where the claim of non-receipt is not recognized or added as an “issue” at the time of the request) the 930 issue code will be added by the Administrative Law Judge (ALJ) or Supervising Administrative Law Judge (SALJ). However, use of this code by Communications Intake Unit (CIU) staff when the issue is raised at the time of the request will greatly assist in the accurate tracking of these cases as required by the Meachem litigation. If the 930 code is added incorrectly, the ALJ or SALJ will delete the code at or after the hearing, so any question as to whether there is, in fact, a claim of non-receipt should be resolved in favor of assigning the 930 code.

Please note that claims of non-receipt of Notices of Intent or Notices of Action, etc. generally should not be coded 930 by CIU staff. Where the non-receipt of such a notice actually is in issue at the hearing, the 930 issue code should be added by the ALJ or SALJ.

When inputting data from the Data Sheet (FH-019) onto the Fair Hearing Information System, Scheduling Unit support staff should merely add the 930 using the INAD action and NA aid status without removing any existing issue codes. The Outcome Reason code should follow the primary issue code. Questions should be directed to the Scheduling Unit 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