

Office of Administrative Hearings (OAH)	Transmittal Number: 97-01
Procedures Transmittal	Date: January 28, 1997
	Page: 1 of 4
Distribution:	
ALB OAH Staff <input checked="" type="checkbox"/> UPS ALJs/ <input type="checkbox"/> Upstate LDSS <input type="checkbox"/>	Subject: NYC Reopen/Reopen Denial Procedure (Supersedes OAH Transmittals 95-21 and 95-22)
SUP ALJs <input type="checkbox"/>	
NYC OAH Staff <input checked="" type="checkbox"/> NYC ALJs/ <input type="checkbox"/> NYC Agencies <input type="checkbox"/>	
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The NYC Reopen and Reopen Denial Procedures enumerated in OAH Transmittals 95-21 and 95-22 have been revised to incorporate procedural changes brought about by the electronic modification process. This revision will also serve to clarify the use of the Reopen Denial Codes used to generate the script for the Reopen Denial letters that are mailed to appellants and tie them to the Disposition Reason Codes 95, 96, 97, and 98. This transmittal, therefore, replaces OAH Transmittals 95-21 and 95-22.

If you have any questions, please consult your supervisor or call Sue Fiehl at 518-473-4779 or via e-mail 90j029.

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Mark Lacivita, Director of Administration  
Office of Administrative Hearings

Attachment

In the New York City Office of the Administrative Hearings (OAH), the following procedures should be followed when a request has been made to reopen a fair hearing:

1. The OAH Worker completes the DSS-2846, Modification Form, with "REOP" and the appropriate reason code (see attached list of reason codes) entered in the Disposition field. The address reflected on the Appellant Information Screen should be verified with the client to determine whether there has been a recent change in address or has been entered in error. If the address is incorrect, the Worker should correct the address on line in accordance with established procedures. The intake worker informs the client that he/she will be notified by mail as to whether the fair hearing will be reopened as well as the aid status. (If there is no change in the address, but the client claims non-receipt of the notice, the Comment field should be noted "Client claims non-receipt of notice; address is correct.")
2. The OAH Worker gives the intake Reviewer the DSS-2846, who verifies that any address correction has been made.
3. The Reviewer examines the information on the DSS-2846 and determines whether the defaulted fair hearing can be restored to the calendar as set forth in 18 NYCRR 358-5.5.

Pursuant to 18 NYCRR 358-5.5, a defaulted fair hearing can be reopened if the appellant or the appellant's authorized representative has:

contacted the department within 15 days of the scheduled date of the fair hearing to request that the fair hearing be rescheduled; and provided the department with a good cause reason for failing to appear at the fair hearing on the scheduled date; or

contacted the department within 45 days of the scheduled date of the hearing and has established that the appellant did not receive the notice of fair hearing prior to the scheduled hearing date.

If the request to reopen the hearing does not meet the criteria established in 18 NYCRR 358-5.5, the request for a reopened fair hearing is denied.

When it has been determined by the Reviewer that the request for a reopened fair hearing is denied, the procedures are as follows:

1. The Reviewer accesses the Fair Hearing Information System (FHIS) and, at the FHIS menu, enters selection "03" (for PFHMOD Modification) and the fair hearing number which will bring the Reviewer to the Modification screen. The Reviewer enters "RPDN" to signify Reopen Denied, enters the appropriate Disposition Reason Code (see below), corrects the Disposition Date to the current day's date, enters the Scheduling Status "Z", and transmits to the Comment Information Screen (PFREQ3).
2. In Comments, the Reviewer enters a **brief but clear** description of why the reopen request is being denied, the date the client contacted this office and the Reviewer's initials.

- 3. The Reviewer notes in the Disposition field on the DSS-2846 "DENY" next to "REOP, the appropriate Disposition Reason Code, and his or her initials. The Reviewer also places one of the following reopen denial codes to be used to generate the scripted reopen denial letter, in the upper left-hand corner of the DSS-2846.

<u>Reopen Denial Code</u>	<u>Reason</u>	<u>Disposition Reason Code</u>
NGC	Not Good Cause (Within 15 Days)	95
NGC	Not Good Cause (Within 45 Days when the appellant claims no notice and is found not to be credible OR it appears that the appellant knew the FH date)	97
DATE	Forgot or Mistook the Date (Within 15 Days)	95
15D	Requested Beyond 15 Days (Not within 15 Days)	96
PREV	Previously Advised That No Further Adjournments Would Be Granted (Appears that the appellant was previously advised that no further adjournments would be granted)	97
45D	Requested Beyond 45 Days (Not within 45 days)	98

Please note that the other Reopen Denial Codes; namely, IN (Insufficient Reason) and NR (No Reason) are for use in the Albany Correspondence Unit ONLY.

The DSS-2846 is forwarded by the Reviewer to the designated OAH Worker (currently Natalie Pettiford or Zenatul Zamen) for input into the OA (Office Automation) system so that the reopen denial letter can be generated. The procedure for generating the scripted reopen denial letter is as follows:

- 1. The designated OAH Worker (currently Natalie Pettiford or Zenatul Zamen) accesses the Office Automation (OA) system and presses the "ALT 1" soft key\* to advance directly to the first scripted screen and works through the procedure outlined below.

\*If there is no soft key, the reopen denial letter script can be accessed by pressing the shift key with the F1 key. The Worker types in "SCR", skips forward and types "Reschedule/DLASCOR" and then presses the return key.

2. On the screen that appears, the Worker selects the type of reschedule letter that will be sent by entering the code designated by the Reviewer on the DSS-2846, Modification Form, followed by the Return Key. The screen that appears will have a field for the Worker to input the fair hearing number, location of where the letter is being typed, today's date, and initials. After the Worker has input this information, s/he presses the Return Key to advance to the next screen.
3. The name and address of the client will appear on the screen. The worker verifies that the client information is correct, and presses enter.
4. The letter is created and is placed by the system in the OAH Worker's Working File.
5. The OAH Worker mails the created document to the designated person in Albany (currently Carol Smith) who is responsible for printing and mailing the denial letter to the client.
6. The DSS-2846 Modification copies are filed as follows:

White: OAH Worker's file  
All Others: Discarded

When it has been determined by the Reviewer that the request for a reopened fair hearing is approved, the procedures are as follows:

1. The Reviewer accesses the Fair Hearing Information System (FHIS) and at the FHIS menu, enters Selection "03" for PFHMOD Modification and the fair hearing number which will bring the Reviewer to the Modification screen. The Reviewer enters the sub-category HOLD, the disposition REOP, the appropriate Disposition Reason Code, corrects the Disposition Date to the current day's date, enters the Scheduling Status "S" and the new Aid Status, and transmits to the Comment Information Screen (PFREQ3).
2. In Comments, the Reviewer indicates the reason for the reopen, the date the client contacted this office, and the Reviewer's initials, enters "X" in Update Complete, and transmits.
3. The DSS-2846 Modification forms are then sent to Albany (Attention: Nancy Irving). It is crucial that the DSS-2846s are sent to Albany timely, since no cases will be removed from HOLD status and scheduled until the form is received by the Albany Scheduling Unit.
4. For reopen requests received between 15-45 days from the hearing date where the client claims non-receipt of notice, the Reviewer checks the Message field for the language "457 returned to OAH" and reopens the hearing if the notice was returned. If the notice was NOT returned to OAH, and the appellant is not otherwise credible in terms of non-receipt of the notice, the reopen request is denied and Reopen Denial Code "NGC" and Disposition Code 97 is utilized.