

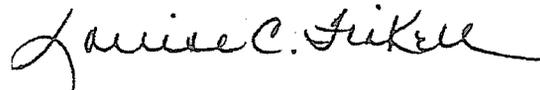
Office of Administrative Hearings (OAH) Procedures Transmittal		Transmittal Number: 13- 03
Distribution:		Date: October 17, 2013
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ALB OAH Staff <input checked="" type="checkbox"/>	UPS ALJs <input checked="" type="checkbox"/>	Upstate LDSS <input checked="" type="checkbox"/>
	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"/>
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Subject: Mailing Evidence Packet for Telephone Hearings		

In conformance with the requirements in the matter of Varshavsky, et al. v. Perales, the Office of Administrative Hearings (OAH) schedules telephone hearings for clients who have verified their inability to travel to the hearing site. It is the responsibility of the social services agency to provide complete copies of its documentary evidence to the hearing officer at the hearing and also to the appellant or appellant's representative. Therefore, when the OAH schedules a hearing to be held with the appellant appearing via telephone, it is essential that the agency mail to the appellant and/or representative, within a reasonable time, consistent with 358-3.7(3)(b)(1) and 358-4.2(c), a copy of the evidence packet prior to the hearing even when not requested by the appellant.

From time to time, the OAH schedules telephone hearings for the convenience of the appellant, for example for those who live out of state; for those who due to domestic violence related circumstances cannot travel to the location of the hearing; or, for other valid reasons. In these cases, the agency should also mail a copy of its evidence packet to the appellant and/or representative within a reasonable time, consistent with 358-3.7(3)(b)(1) and 358-4.2(c) prior to the hearing.

In any case, scheduling of a telephone hearing shall act as the appellant's request for the records. The mailing of the evidence packet should be timed to insure receipt by the appellant prior to the hearing. Non-receipt of the packet by the appellant can result in an adjournment of the hearing that could have been avoided.

If you have any questions regarding this transmittal, please contact Victoria A. Fiorino at (518) 473-4717 or via e-mail at victoria.fiorino@otda.ny.gov.



Louise Finkell, Director of Administration
Office of Administrative Hearings