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| Office of Administrative Hearings (OAH) | Transmittal Number: 00-30 |
| Procedures Transmittal | Date: August 25, 2000 |
| | Page: 1 of 2 (plus 3 page attachment) |
| Distribution: | Subject: Office of Temporary and Disability Assistance's Initiative to Encourage and Monitor Compliance with Fair Hearing Decisions |
| ALB OAH Staff [x] UPS ALJs/ [x] Upstate LDSS [x] SUP ALJs [x] & Commissioners | |
| NYC OAH Staff [x] NYC ALJs/ [x] NYC Agencies [x] SUP ALJs [x] & Commissioner | |

On April 18, 2000, Office of Temporary and Disability Assistance (OTDA) Commissioner Brian J. Wing, sent a letter to all districts informing them of an OTDA initiative to encourage and monitor compliance with fair hearing decisions. As part of this initiative, on May 1, 2000, OTDA began tracking local district responses to notifications of non-compliance from the Office of Administrative Hearings' Compliance Unit through the use of the Agency Tracking Program (ATP). Currently, at the end of each month, a Thirty-Days-Overdue-Compliance Report is sent to every district indicating the cases where insufficient or no action was taken 30 or more days after the compliance complaint. In instances where a district has no such cases, a blank report is sent.

As outlined in Commissioner Wing's letter, effective August 1, 2000, OTDA will assess a withholding of \$100.00 for each case listed on the Thirty-Days-Overdue-Compliance Report. The withheld funds will be restored periodically when appropriate reports are approved. Any complaint of non-compliance that is received by this office on or after August 1, 2000 will be subject to withholding after 30 days of non-compliance. It is important, therefore, that local districts and NYC agencies utilize the Agency Tracking Program available on the Local Department of Social Services (LDSS) Fair Hearing Information System (FHIS) menu to timely report compliance action on every decision issued by the Office of Administrative Hearings, particularly with regard to client-favorable decisions.

Use of the ATP generates an FHIS report (the FH-016, Agency Tracking Report) that is utilized by OAH Compliance Coordinators to close complaints of non-compliance received from appellants in cases where the agency has substantiated their compliance with directives contained in the decision or to request additional information from agencies. Failure on the part of an agency to enter a report into the ATP will cause the case to be included on the 30-Days-Overdue Compliance Report once that much time has elapsed. Instructions for local district staff to follow in providing on-line responses to the Office of Administrative Hearings via the Agency Tracking Program were issued in OAH Transmittal 98-13 on March 25, 1999 and were also enclosed in Commissioner Wing's April 18 letter.


Once a complaint of non-compliance is received from an appellant, information entered on the Agency Tracking Program can be evaluated by OAH Compliance Coordinators to determine the extent of agency compliance with directives contained in the decisions after hearing. If the report entered by the agency on the ATP is sufficient, the appellant's compliance complaint can be immediately closed upon entry by the OAH Compliance Coordinator of the appropriate tracking code.

A complete list of compliance tracking codes that may appear on FHS is attached. (Please note, the list of codes previously provided with Commissioner Wing's letter contained only those that might appear on the Thirty-Days-Overdue-Compliance Report.) By utilizing this complete list, agencies can determine which cases are in full compliance with decision directives and, therefore, not subject to withholding. These codes may be modified, or new codes developed, as needed. You will be notified of any such changes.

If the report from the agency is insufficient or, lacking entirely, the OAH Compliance Coordinator will open the compliance complaint. A request for information or additional information will be sent to the agency in the form of a greenbar report, the OAH 5472, Complaint of Non-Compliance, which is generated by the BICS (Upstate agencies) or PDS (NYC agencies) systems. A response to this complaint must be input by the agency into the Agency Tracking Program for further review by the OAH Compliance Coordinator to determine that the actions taken by the agency have sufficiently met the requirements of the decision.

Upon successful resolution of compliance, the greenbar report, OAH 5473, Notice of Compliance Resolution, will be sent to the agency via BICS or PDS. Failure on the part of the agency to effect resolution within 30 days of the appellant's complaint will result in the case appearing on the 30-Days-Overdue-Compliance Report subject to withholding. A report of compliance activity via the Agency Tracking Program will prevent the case from being included on the withholding list pending review by the designated Compliance Coordinator.

Any individual situations requiring further discussion should be brought to the attention of the Compliance Coordinator assigned to the particular case or to Ms. Victoria Fiorino, Supervisor, Communications Intake Unit, at (518) 473-4717 or via email 89a448@dfa.state.ny.us. General questions concerning this compliance monitoring process can be brought to the attention of your supervisor or can be discussed with Ms. Fiorino, as appropriate.



Mark Lacivita, Director of Administration
Office of Administrative Hearings

Attachment

Compliance Action Codes

| <u>Action Code</u> | <u>Definition</u> | <u>Output</u> |
|--------------------|--|---|
| A3 | Acknowledged | F.H. decision ordered via FHDMS |
| B1 | Not Compliance | Article 78 letter to Appellant |
| B2 | Not Compliance | Manual Letter to App./Rep. |
| B3 | No Action | No Output |
| C1 | Open Case in F.H.I.S. | Notice of Complaint of Non-Compliance to L.D.S.S. via PDS/BICS, Letter to App. |
| C2 | Open Case in F.H.I.S. | Manual Letter to L.D.S.S./App. |
| C3 | Open Case in F.H.I.S. | Notice of Complaint of Non-Compliance to L.D.S.S. via PDS/BICS, Letter to App. |
| C4 | Open Case in F.H.I.S. | Notice of Complaint of Non-Compliance to L.D.S.S. via PDS/BICS, Manual Letter to App. |
| C5 | Open Case in F.H.I.S. | Notice of Complaint of Non-Compliance to L.D.S.S. via PDS/BICS, Letter to App. |
| D1 | Response Received | No Output Telephone response from L.D.S.S. |
| D2 | Response Received | No Output Letter response from L.D.S.S. |
| D3 | Response Received | No Output Electronic Response Received From Local District |
| E2 | Additional Communication via Telephone | No Output |
| E3 | Case Review | No Output |

| <u>Action Code</u> | <u>Definition</u> | <u>Output</u> |
|--------------------|--|---|
| E4 | Insufficient Report Received from L.D.S.S.via PDS/BICS | Notice of Complaint of Non-Compliance with additional comments |
| F1 | No Response Received from L.D.S.S. | Notice of Complaint of Non-Compliance with additional comments to L.D.S.S. via PDS/BICS |
| F2 | No Response Received from L.D.S.S. | Manual letter to L.D.S.S. |
| F5 | No Response Received from L.D.S.S. | Notice of Complaint of Non-Compliance with additional comments to L.D.S.S. via PDS/BICS |
| G1 | Closes Case in F.H.I.S. | F.H.I.S. Letter to Appellant Notice of Compliance Resolution to L.D.S.S. via PDS/BICS |
| G2 | Closes Case in F.H.I.S. | Manual Letter to Appellant Notice of Compliance Resolution to L.D.S.S. via PDS/BICS |
| G3 | Closes Case in F.H.I.S. | No Letter to Appellant Notice of Compliance Resolution to L.D.S.S. via PDS/BICS |
| G4 | Closes Case in F.H.I.S. | F.H.I.S. Letter to Appellant Notice of Compliance Resolution to L.D.S.S. via PDS/BICS |
| G5 | Closes Case in F.H.I.S. | Special HRA Project-Mass Mailing Notice of Compliance Resolution to L.D.S.S. via PDS/BICS |
| H1 | Case Review | 2nd F.H.I.S. Letter to Appellant |
| H2 | Case Review | 2nd Letter to Appellant (Manual) |
| J2 | Special Project (KFC) | No Output |

| <u>Action Code</u> | <u>Definition</u> | <u>Output</u> |
|--------------------|--|---------------------------------|
| K2 | Closes Special Project (KFC) | F.H.I.S. Letter to Appellant |
| K3 | Closes Special Project (KFC) (no response from App. | No Output |
| M1 | Closes Case in F.H.I.S. (Medicaid per MMIS) | F.H.I.S. Letter to Appellant |
| M2 | Closes Case in F.H.I.S. (Medicaid per MMIS) | Manual Letter to Appellant |
| R3 | Reopens Case in F.H.I.S. | F.H. decision ordered via FHDMS |
| S2 | Closes Case in F.H.I.S. (Special Projects per W.M.S.) | No Output |
| S3 | Closes Case in F.H.I.S. (Special Projects - no response) | No Output |
| Z1 | Correction | No Output |