

<b>Office of Administrative Hearings (OAH) Procedures Transmittal</b>		<b>Transmittal 18-02</b>
<b>Distribution:</b>		<b>Date: March 5, 2018</b>
<b>Albany OAH Staff</b> <input checked="" type="checkbox"/>	<b>Rest of State Hearing Officers</b> <input checked="" type="checkbox"/>	<b>Subject: Hearing Request Abandonment Procedures for Appellants with an MA or FIDA Code  (Amended 16-09)</b>
	<b>Supervising Hearing Officers</b> <input checked="" type="checkbox"/>	
<b>NYC OAH Staff</b> <input checked="" type="checkbox"/>	<b>NYC Hearing Officers</b> <input checked="" type="checkbox"/>	
	<b>Supervising Hearing Officers</b> <input checked="" type="checkbox"/>	
<b>Rest of State Social Service Districts</b> <input checked="" type="checkbox"/>		
<b>NYC Agencies</b> <input checked="" type="checkbox"/>		

This amends and replaces Office of Administrative Hearings (OAH) Internal Procedures Transmittal 16-09 dated July 15, 2016.

Following the failure to appear at a fair hearing involving a Medical Assistance (MA) code (200-299) or Fully Integrated Duals Advantage (FIDA) code by both the appellant and authorized representative (excluding Varshavsky class members), the hearing officer or section clerk will enter "DEF" in the Disposition field of the Fair Hearings Information Screen (FHIS), resulting in the hearing being automatically placed in both "HOLD" and "OADG 65" status. FHIS Comments will automatically be updated to include the following language: "LETTER 19 OAH ABANDONMENT LETTER SENT". An OAH Abandonment Letter (formerly known as Letter 18/Fishman Default Letter) will be dated and mailed two business days after the hearing is placed in "OADG 65" status.

The OAH Abandonment Letter will instruct appellants who want their fair hearing rescheduled to contact OAH within 10 calendar days of the postmark. If the appellant or authorized representative request rescheduling within that timeframe and provide good cause for failing to appear at the hearing, Legal Specialties Unit staff (LSU) will adjourn the hearing by removing the "HOLD" from the Sub-Category field (unless the hold is required due to the nature of the hearing) and correcting the Disposition/Reason field from "OADG 65" to the appropriate adjournment code (e.g. "OADG 26" if the appellant was ill).

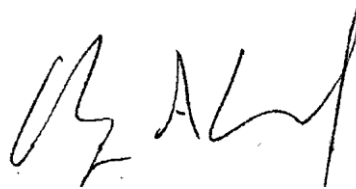
If neither the appellant nor authorized representative respond to the OAH Abandonment Letter within the 10-day period, designated staff will correct the hearing to default status. If the appellant or authorized representative thereafter request the hearing be reopened and provide good cause for having failed to appear, LSU will reopen the hearing by typing the appropriate reopening code in the Disposition/Reason field (e.g. "REOP 26" if the appellant was ill). If the 10-day period has passed but the hearing incorrectly remains in "OADG 65" status, LSU will first need to correct the Disposition field to "DEF" before reopening the hearing.

No matter when a request to reschedule or reopen a hearing is made, if good cause for failing to appear is not provided, the hearing must be "reopen denied" by correcting it to "DEF" (if not already in default status), entering "RPDN 66" and setting up a new hearing.

If a request to reopen a hearing is made one calendar year or more following the failure to appear, the hearing must be "reopen denied" by entering "RPDN 67" and setting up a new hearing.

Finally, to ensure OAH Abandonment Letters are properly generated and mailed, staff should wait until the day after a hearing is placed in "OADG 65" status before processing any changes to the disposition in FHIS. For example, if an appellant contacts OAH to request rescheduling on the same day the hearing is placed in "OADG 65" status, the staff member should wait until the following day to process the request.

If you have any questions regarding this transmittal, you may contact your supervisor or Frank Seminerio at (518) 474-9777 or Frank.Seminario@otda.ny.gov.

A handwritten signature in black ink, appearing to read "Roy A. Esnard". The signature is stylized and cursive.

Roy A. Esnard, Deputy Commissioner  
Office of Administrative Hearings