

Mail via regular mail to:

Waiver of Appearance Request
Office of Administrative Hearings
NYS Office of Temporary and Disability Assistance
P.O. Box 1930
Albany, New York 12201-1930

-or-

Mail via express mail to:

Waiver of Appearance Request
Office of Administrative Hearings
NYS Office of Temporary and Disability Assistance
40 North Pearl Street, Floor 15B
Albany, New York 12243

-or-

Email to:

Otda.sm.hearings.waivers@otda.ny.gov

The email should include the Fair Hearing number, but not the Appellant's name, in the subject line, and packets containing confidential information should be sent encrypted.

-or-

Fax to the attention of **Waiver of Appearance Request** at:

Fax Number: (518) 473-6735

When faxing, please include on the fax transmittal the name of the appellant, the fair hearing number, the date of the hearing, and the number of pages contained in each evidence packet to assist in matching the submission to the appropriate fair hearing file.

For Managed Care Organizations or Managed Long-Term Care Plans, 18 NYCRR 360-10.8(f)(4) requires the written material be submitted to OAH (and to the enrollee or enrollee's representative) at least three business days prior to the scheduled hearing.

For Social Services Agencies, including other State Departments, 18 NYCRR 358-4.3(c) requires written material be submitted to OAH at least five business days prior to the hearing, and must be sent to the Appellant or the Appellant's representative in advance of the hearing.

At the discretion of the Hearing Officer, evidence packets submitted late may not be considered. The Hearing Officer may elect to complete the hearing without input from the agency provided the Appellant's due process rights are protected.

Please note it is the responsibility of the agency to provide the evidence packet to the appellant and/or representative when requested. For telephone hearings, the agency must mail the appellant and/or representative the evidence packet prior to the hearing even when not requested by the appellant and/or representative. In all hearings, it is the responsibility of the agency to provide a copy of the evidence packet at the hearing unless previously provided to the appellant and/or representative.

Questions with respect to individual cases and/or receipt of waiver requests/evidentiary submissions should be addressed to the OAH Liaison Unit at 518-474-8787.

If you have any questions regarding this transmittal, you may contact your supervisor or Victoria Fiorino at (518) 473-4717 or Victoria.Fiorino@otda.ny.gov.

---- Original signed ----

Roy A. Esnard, Deputy Commissioner
Office of Administrative Hearings

SAMPLE WAIVER REQUEST

Waiver of Appearance Request

Office of Administrative Hearings

NYS Office of Temporary & Disability Assistance

P.O. Box 1930

Albany, New York 12201-1930

Appellant's Name _____

Fair Hearing Number: _____

To Whom It May Concern:

This information is submitted with respect to the above-mentioned fair hearing and is submitted in lieu of appearance at the hearing. A personal appearance is not necessary because _____

_____.

In accordance with the requirements contained in 18 NYCRR 358-4.3(c)(1), please consider this as this agency's request to present evidence in the form of written documentation in lieu of appearing at the hearing. Should the content of this document raise issues requiring further elaboration or cross-examination during the course of the hearing, please contact:

_____ (name) at _____ (telephone number)

-or-

_____ (name) at _____ (telephone number).

The following should be noted for the record:

(In this section, summarize the agency's position relative to the issue under review at the hearing. Attach all appropriate documentation and submit within the timeframe required for information to be available on the scheduled date of the hearing.)

These facts, as presented, should be of assistance in your review of this case.

Sincerely,