

Office of Administrative Hearings (OAH) Procedures Transmittal			Transmittal Number: 08-01
Distribution:			Date: January 23, 2008
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ALB OAH Staff <input checked="" type="checkbox"/>	UPS ALJs <input checked="" type="checkbox"/>	Upstate LDSS Erie, Monroe, Niagara Only <input checked="" type="checkbox"/>	Subject: Fair Hearing Pilot Project for OHSM/OMR1/DOH1/MCO Western Region Hearings Revised
	SUP ALJs <input checked="" type="checkbox"/>		
NYC OAH Staff <input checked="" type="checkbox"/>	NYC ALJs <input type="checkbox"/>	NYC Agencies <input type="checkbox"/>	
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This amends OAH Transmittal 07-08 issued on August 31, 2007. Changes are in bold. Also, the second and third-to-the-last paragraphs of the original have been deleted.

A pilot project has been underway for counties in the western region of the state involving fair hearing requests scheduled against the following agencies: the Office of Health Insurance Programs (OHIP--formerly OMM, referred to as OHSM on the Fair Hearing Information System), the Office of Mental Retardation and Developmental Disabilities (OMR1), the Department of Health's Traumatic Brain Injury Waivered Services Program (DOH1) and all Managed Care Organizations (MCOs). These hearing will be removed from the regular hearing calendars to provide more flexibility in scheduling, and hopefully, thereby, improve the show rate and reduce issuance times.

For cases scheduled against these agencies, other than request intake, reopening, and withdrawing hearings, many hearing transactions including scheduling, adjourning, and rescheduling currently handled by Communications Intake and Scheduling Unit staff will be handled off line by a designated Administrative Law Judge (ALJ). For **continuing purposes of piloting this proposal, the number of local districts west of Syracuse that will participate has been reduced to the following large districts:**

Erie, Monroe, and Niagara

Issue codes consist of 229 (MCO)
241-244 plus 247 (OHSM)
293 (DOH1)
294 (OMR1)

The above issues scheduled in the piloted counties will continue to be scheduled at the customary local district sites. They will, however, be scheduled on dates other than regularly scheduled calendars.

For purposes of the pilot, a non-DEPCON email will be generated upon intake to the Scheduling Unit supervisor, Nancy Irving, and ALJ Katherine Volk. Upon receipt of the email, it will be up to ALJ Volk to check FHIS, pick the scheduling date, and update all activity, including adjournment requests from either party.

Once a request is processed by Communications Unit Intake staff, a restriction message will be indicated on the FHIS Request Screen and the Modification Screen as follows:

Restricted--Special Handling by ALJ ONLY

An FHIS edit is in place which requires that "HOLD" be entered in the Subcategory field. For issue codes 294, a message will remind staff to enter the HOLD; for the others, if it is omitted, FHIS will automatically insert it. CIU staff are reminded to consult the issue code desk guide to ensure proper coding of these requests with respect to the correct agency/secondary agency. For all cases contained within this pilot project, the HOLD subcategory must be entered, and the HOLD must not be removed at any point in the process.

Aid continuing will remain the responsibility of the Albany Liaison section. File compilation and generation of OAH-457 notices will continue to be handled by the Albany Scheduling Unit.

All adjournment requests for these pilot cases MUST be handled by the ALJ. However, the OAH 457 will continue to provide the CIU phone number for adjournments. Although the ALJ will have advised the appellant/representative that all adjournment requests are to be processed by contacting the ALJ directly, should CIU staff receive an adjournment request, the call must be transferred to ALJ Volk at (716) 783-1483.

Complaints concerning denials of adjournment requests by the ALJ or any other complaint, verbal or written, should be referred to Principal Administrative Law Judge, Phillip Nostramo. Any requests for reconsideration should also be referred to Mr. Nostramo.

All faxes will be forwarded to the ALJ. Any correspondence will be scanned and forwarded to the ALJ. The ALJ will make all entries into FHIS including dispositions. Modifications will pull over into Comments.

If an appellant/representative withdraws a hearing request, CIU staff will process the withdrawal. If the appellant/representative requests that a hearing be reopened, CIU staff will process the reopen request. The ALJ and Scheduling Supervisor will be notified of all withdrawals and reopen requests via email.

If the ALJ has correspondence that has to go out as she is unable to contact the appellant/representative via telephone, Debbie Huber is available to assist with preparation and mailing of such from Albany.

If a phone number is lacking on the OAH 1891, the ALJ will check WMS or Panagon or EMEDNY (for clinical MCO cases.) It is very important that CIU staff verify missing phone information if they have an appellant on the phone for any reason or, if upon consulting eMEDNY or WMS, a phone number is available which can be added to FHIS.

Evidentiary packets for OHSM and most MCO hearings will continue to be received in the Albany Office with receipt noted in the Comments by staff in the Administrative Support Unit. They will be distributed to the hearing site, as before. Generally, agency representatives for OMR1 and DOH1 cases will continue to appear at the hearing, rather than requesting waivers of appearance and submitting evidentiary packets in advance, although there are instances where these agencies utilize the waiver process to appear on paper only.

The ALJ will continue to give priority in scheduling to Managed Care Organization (MCO) requests due to the urgency of medically-related needs generally associated with these issues.

It was determined that there was not sufficient activity, at this time, in the other districts to warrant the continued assignment of the Administrative Law Judge to the scheduling and adjournment initiatives required. Therefore, regular Albany-office-based scheduling and adjournment procedures will resume in the following counties previously involved in the pilot: Chautauqua, Cattaraugus, Allegany, Orleans, Geneseo, Wyoming, Livingston, Steuben, Wayne, Ontario, Yates, Schuyler, Chemung, and Seneca.

If there are any questions with respect to this transmittal, you may contact your supervisor or Susan Fiehl at (518) 473-4779 or via email susan.fiehl@otda.state.ny.us.



Mark Lacivita, Director of Administration
Office of Administrative Hearings