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Office of Administrative Hearings (OAH)	Transmittal   Number: 95-17
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Distribution:	1
ALB OAH Staff [x] UPS ALJs/ [ ] Upstate LDSS [ ]   SUP ALJs 	Subject: Division of AID   Services (DAS) Hearing   Right and Coding Changes
NYC OAH Staff [x] NYC ALJs/ [x] NYC Agencies [x]   SUP ALJS (NDAS only)	

The Division of AIDS Services (DAS) Case Management Services Program in New York City assists HIV-infected individuals to access health care, home care, financial entitlements, appropriate emergency and permanent housing, and advocacy services. The DAS Case Management Program is not public assistance, nor is it a service contained in the local district consolidated services plan. The DAS Case Management Program is authorized pursuant to a Mayoral Priority declaring it New York City policy to provide specialized information and referral services to individuals with AIDS or who are HIV-infected. Since these services are not included in the HRA consolidated services plan, determinations regarding the DAS Case Management Program are not subject to State fair hearing review.

## Issue Pertains Solely to DAS Action:

Effective immediately, fair hearing requests which appear to be ineligible for a hearing where the only issue(s) involves a determination for services provided by the Division of Aids Services, should be referred to a supervisor. The supervisor will determine whether the request is or is not subject to State fair hearing review. In the past, DAS has sent out Notices of Rejection for Services they directly provide which have included State fair hearing rights. These Notices are in error and have been brought to the attention of the HRA Office of Legal Affairs. If you receive any Notice from DAS with State fair hearing rights, please direct the notice to your supervisor's attention.

If you are processing a walk-in request and the appellant insists that you process the fair hearing request because the DAS Notice indicates a right to a hearing on this issue, you may take the request and, subsequently, forward it to your supervisor who should, in turn, forward the request to Louise Finkell who will ensure that the appellant receives a letter indicating that the request is not hearable.

## Issue Involves DAS Action Plus Other Agency Action:

The above information pertains when the sole issue involves a determination by the Division of AIDS Services. For all requests which were previously coded with "NDAS" as the secondary agency, there is no longer a need to add NDAS as the secondary agency. The primary agency should be NOHC, NMAP or whichever agency took the action; and if there is another issue involving NDAS, it should be noted in the Comment field so that the Hearing Officer can advise the appellant that NDAS actions are not hearable.

## Previous Coding Procedure

New Coding Procedure

Secondary Agency Field: NDAS Secondary Agency Field: None

(This agency was used in the Secondary Agency field in NYC only, when the client claimed to be HIV positive, have AIDS, or was referred to the Division of AIDS Services)

(Intake staff may refer to Desk Reference under "Agencies Not Incorporated in Desk Reference")

> Mark Lacivita, Director of Administration Office of Administrative Hearings