_____ | Transmittal Office of Administrative Hearings (OAH) | Number: 95-21 +-----| Procedures Transmittal | Date: June 12, 1995 |Distribution: |ALB OAH Staff [X] UPS ALJS/ [] Upstate LDSS []| Subject: NYC Reopen (Info Only) SUP ALJS [] Procedures NYC OAH Staff [X] NYC ALJs/ [] NYC Agencies [] SUP ALJS [] _____

Pursuant to 18 NYCRR 358-5.5, a defaulted fair hearing can be restored to the calendar (reopened) if the appellant or the appellant's authorized representative has:

 contacted the department within 15 days of the scheduled date of the fair hearing to request that the fair hearing be rescheduled; and provided the department with a good cause reason for failing to appear at the fair hearing on the scheduled date;

Or;

o contacted the department within 45 days of the scheduled date of the hearing and has established that the appellant did not receive the notice of fair hearing prior to the scheduled hearing date.

When a client requests that his/her fair hearing be reopened, the following procedures should be followed:

1. The OAH worker completes the DSS-2846, Modification Form, with "REOP" and the appropriate reason code (see attached list of reason codes) entered in the disposition field. The address reflected on the Appellant Information Screen should be verified with the client to determine whether there has been a recent change in address or has been entered in error. If the address is incorrect, the intake worker should access the PFREQ1, Request Entry Program, correct the address on the system and advance to PFREQ3, Comment Information Screen, to annotate in the Comment field that a change of address has been made. The DSS-2846 form should have a checkmark in the Appellant's Address field to indicate a change of address and the OAH worker should initial this box after completing the system update to signify to the Reviewer that the system has been corrected. The intake worker informs the client that he/she will be notified by mail as to whether the fair hearing will be reopened as well as the aid status. (If there is no change in the address, but the client claims non-receipt of the notice, the Comment field should be noted "Client claims non-receipt of notice; address is correct.")

- 2. The OAH worker gives the intake Reviewer the DSS-2846 and a printout of the Appellant Information Screen.
- 3. The intake Reviewer enters the fair hearing number at the PFHREQ selection (Calls the Request Entry Program) of the FHIS menu which will bring the Reviewer to PFREQ1, Request Information Screen. The Reviewer enters "REOP", aid status and the date in the message field located on the PFREQ1 screen.
- 4. The intake Reviewer advances to the PFREQ3, Comment Information Screen, and enters "REOP", aid status, a brief description of the reason why the case is being reopened, the date and the Reviewer's initials.
- 5. The intake Reviewer takes the DSS-2846 reopen and separates the white copy from the yellow copy. The white copy of the DSS-2846 is placed in the "Albany Courier Bin" for eventual placement in the file. For a reopen request with aid continuing, the DSS-2846 yellow copy is placed in the appropriate NYC agency bin. If the reopen is non-aid continuing, the DSS-2846 yellow copy is discarded. (If using a four-part DSS-2846, the pink and gold copies may be discarded.)
- 6. For aid-continuing reopen requests received between 15-45 days from the hearing date where the the client claims non-receipt of notice, the DSS-2846 is given to the assigned intake staff worker responsible for forwarding such requests to Albany. Designated staff in the the Albany Office of Administrative Hearings will check the client's file to determine if, in fact, a notice was returned as undeliverable. Aid status will be determined by Albany OAH staff and the system will be updated accordingly.

The above procedures pertain to reopens which have been approved only. A separate transmittal will be forthcoming which will outline the reopen denial procedure.

Mark Lacivita, Director of Administration Office of Administrative Hearing

Attachment

DISPOSITION CODES ADJOURNMENT/REOPEN RELATEC

01 Administrative - Calendar Rolled 02 Administrative - Overloaded Calendar 03 Hearing Officer - Initiated at Hearing and or Personalized 04 Administrative - Combine Files/Add Issues 05 ADH - Unclaimed Certified Mail 06 07 ADH - Waiver Withdrawn by Recipient 08 ADH - Case Resubmitted by Agency 09 Administrative - Error in Name, Address, etc. 10 Administrative - Awaiting Outcome of Litigation 46 Administrative - Agency Change (Add/Delete/Location) 19 Awaiting Written Confirmation of Withdrawal from Agency 20 Appellant Incarcerated 21 Lack of Child Care 22 Educational (Class/Exams) 23 Employment Conflicts 24 Interpreter Needed 25 Medical - AC Pending Medical 26 Medical - Appellant/Children are ill 27 Medical - Appellant Homebound 28 Preparation Time - Appellant 29 Preparation Time - Representative Recently Retained 30 Preparation Time - Awaiting Documents 31 Pending Outcome of Lawsuit (Appellant/Representative) 54 Appellant Mistook the 32 Witness Not Available 33 Representative Not Available 34 Representative Not Retained 35 Representative Lost Contact with Appellant 36 Scheduling Conflict (Appellant/Representative) 37 Time Change 38 Lack of Transportation/Funds 39 Car Trouble 49 Transportation Delays 40 Out of Town (Family Illness/Emergency) 41 Funeral 42 Inclement Weather 43 Arrived Late at Hearing 44 Had to Leave Before Hearing was Called 45 Religious Holiday/Observance 47 Possible Resolution 48 Other Appellant/Representative Reason 60 Agency Representative Witness Not Available 61 Agency Facility Not Available 62 Agency Needs Time to Prepare 63 Other Agency Reason 70 Telephone Hearing - Appellant Not Home, Not Available 71 Telephone Hearing - Appellant Deceased and Family Awaiting Authorization to Pursue Hearing

72 Telephone Hearing - Telephone Disconnected/Wrong Number

73 Telephone Hearing-Aw 74 Telephone Hearing-App Homebound Telephone He adjourning to a regula

WITHDRAWAL RELATED

80	Telephone Hearing - Abandoned/Returned/Un
81	Appellant Deceased
82	Signed Withdrawal Rec
83	Issue Resolved
84	Appellant No Longer W:
85	Appellant Withdrew at
86	Administrative - Duj
87	Administrative - Not
88	Administrative - Aba
DEFAULT RELATED	
90 91	Client Appeared Late Client Appeared Late

- 50 Non-Receipt or Late Re
- 51 Administrative Notic
- 52 Appellant Thought Iss
- 53 Unable to Contact Adj