| Transmittal Office of Administrative Hearings (OAH) | Number: 97-09 Amended | +-----| | Date: April 1, 1997 Procedures Transmittal | Page: 1 of 2 |Distribution: | Subject: | Vera & Velez v. Dowling| |ALB OAH Staff [x] UPS ALJs/ [x] Upstate LDSS [x] | and Claudio v. Dowling | | Foster Parent Standing | SUP ALJs [x] in Foster Care Reim- | |NYC OAH Staff [x] NYC ALJs/ [x] NYC Agencies [x]| bursement Issues and | SUP ALJs [x] NDAR Only | Foster Care Denials |

Pursuant to the recent decisions in <u>Vera and Velez v. Dowling</u> and <u>Claudio v. Dowling</u>, we will be reopening hearings in foster care reimbursement cases where foster parents were denied standing. The Court of Appeals has held that the Office of Administrative Hearings must schedule hearings regarding the rate of foster care reimbursement, as well as the denial of fostercare benefits, and grant standing to foster parents, regardless of whether the subject foster children still live with the foster parent requesting the hearing.

We have identified appproximately 290 such cases which fall into this class and may need to be reopened <u>de novo</u>. The processing required to reopen these 290 preidentified cases will be handled by designated staff, as yet to be assigned. However, we anticipate that there will be additional requests made on behalf of clients whose fair hearing numbers have been purged from the Fair Hearing Information System (FHIS), as well as duplicates from appellants whose cases are among the 290 preidentified cases. These may be requested via telephone, letter, etc. and if it is apparent that the requester is seeking a hearing because they previously had a hearing and were denied standing, a new request should be taken.

New requests taken to grant standing to fosterparents will be assigned a special tracking code of 913 to be used in addition to the issue codes 313 or 315. Requests should include the 913 tracking code and should include an appropriate comment to indicate that the new request is pursuant to the <u>Claudio</u> litigation. The request can then proceed routinely for supervisory approval. It is important that appellants seeking a "reopening" of these foster care issues are not dismissed by being informed that they are not entitled to a hearing on an issue that was previously heard. Any questionnable cases should, therefore, be brought to the attention of supervisory staff.

Coding is as follows:

Agency: NDAR (NYC) or LDSS (Upstate)

Category: SERV
Subcategory: None
Action: INAD/DEN
Issue Code: 313 or 315
plus 913

If it is not apparent from the requester that the hearing request is being made in accordance with directives of the <u>Claudio</u> litigation at the time of request and it becomes apparent at the time of hearing, the Administrative Law Judge should add the 913 tracking code on the FH-019, Fair Hearings Data Sheet.

Any questions can be directed to your supervisor or Sue Fiehl at (518) 473-4779 or via e-mail 90j029.

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Mark Lacivita, Director of Administration Office of Administrative Hearings