 Office of Administrative Hearings (OAH)	Transmittal Number: 97-21
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ADMINISTRATIVE DISQUALIFICATION HEARING REOPEN PROCEDURES

Changes in the Regulations with respect to mailing procedures involved in notification of Administrative Disqualification Hearings (ADH) have resulted in a change in existing reopening procedures. Any clients requesting the reopening of their hearing should be referred to the Administrative Disqualification Unit for assistance. The following is informational for non-ADH staff.

The process of reopening an Administrative Disqualification Hearing (ADH) is initiated when a client contacts this office to request such action. Such calls should be referred to the ADH Supervisor (currently Ed McCarthy) or appropriate backup staff. In order for a reopen request to be considered, the client must contact this office within 10 days following the scheduled date of the hearing when claiming good cause or within 30 days following the issuance date of the hearing when claiming non-receipt of the notice. The specific procedures are as follows:

<u>Client Requests Reopened Hearing Within 10 Days Following the Scheduled Date</u> of the Hearing Claiming Good Cause:

When a client contacts this office to request a reopened hearing within 10 days following the scheduled date of the hearing claiming good cause, the ADH Unit Supervisor will advise the client that the hearing will be reopened and a letter will be forthcoming as to the date and time of the new hearing. In addition, the client is advised to be prepared to provide documentation at the reopened hearing to establish "good cause" for missing the original hearing.

The ADH Supervisor will initiate the following actions if the fair hearing decision has not yet been issued:

- The Administrative Law Judge (ALJ) who heard the case is contacted to stop the drafting and subsequent issuance of the decision. The ALJ will indicate on the case file that the disposition needs to be changed from heard to adjourned (OADG).
- 2. The ALJ will forward the file to Albany the same way as any other adjourned case.
- 3. The case will be returned to the ADH Unit for rescheduling.
- 4. When the hearing is scheduled, the client will be sent a notice of rescheduling including the new date and time of the hearing.

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If the fair hearing decision has been issued, the fair hearing is reopened under a new fair hearing number. The directives contained in the issued decision remain intact until such time as a new fair hearing decision is issued. The threshold issue becomes whether the client had good cause for failing to appear at the hearing. If the Commissioner determines good cause, the merits of the alleged fraud will be addressed in the new decision issued which will vacate the original decision.

<u>Client Requests Reopened Hearing Within 30 Days Following the Issuance Date of</u> the Decision Claiming Non-Receipt of the Notice:

An Administrative Disqualification Hearing (ADH) will be reopened after the decision has been issued when the client claims not to have been notified of the hearing date. The request for such reopen must be made within 30 days following the issuance date of the decision. The client is informed that the hearing will be reopened and that the client will be notified by mail of the new hearing date. The following steps are taken:

- 1. The client's address is verified and the system is modified to reflect any changes, if necessary.
- 2. The Fair Hearing Information System (FHIS) is accessed to assign a new fair hearing number. On the New Request Screen (selection 02), client information is input to generate the new fair hearing number. All the original hearing information, (including comments, fair hearing number, and date), and a reference that this is a reopened hearing, are input onto the Comment screen.
- 3. A Screen Print is made of the New Request Screen. The Screen Print will serve as the actual 1891 for the new request.
- 4. A new file folder is prepared, the original file folder is pulled and placed in the new file folder. For Upstate cases, the hearing will be rescheduled on the next available Public Assistance (non-ADH) calendar. NYC reopened hearings will be rescheduled on the next available ADH calendar.
- 5. When the hearing is scheduled, the client is sent a reschedule notice with the new date and time of the hearing and a copy of the evidentiary packet.

Directives contained in the issued decision remain intact until the new decision is issued or a new hearing disposition is entered. The threshold issue becomes verification of receipt of notice. If the Commissioner determines that the client did receive the Notice of Hearing, the decision will state that no just cause was found to vacate the prior decision. Should the Commissioner determine that the client did not receive the Notice of Hearing, the decision will vacate the prior decision and address the merits of the alleged fraud. If the client does not appear at the second hearing, the hearing is defaulted.

Questions regarding this transmittal may be directed to Ed McCarthy at (518) 473-8920 or e-mail LA0088 or Susan Fiehl at (518) 473-4779 or e-mail 90J029. &f0s554y3x1S