



FAMILY INDEPENDENCE ADMINISTRATION

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POLICY DIRECTIVE #06-21-OPE

(This Policy Directive Replaces PD #06-19-OPE)

NPA FS OFFICE FAIR HEARING RESOLUTION AND PACKET PREPARATION PROCESS

Date: June 21, 2006	Subtopic(s): Fair Hearing
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AUDIENCE The instructions in this policy directive are for all Non-Public Assistance (NPA) Food Stamp (FS) Office staff. They are informational for all other staff.

REVISIONS TO ORIGINAL PROCEDURE This policy directive has been revised to inform NPA FS Office staff of the following changes:

- Staff should not ask an applicant/participant to withdraw his/her Fair Hearing (FH) request. Instead, staff should inform the applicant/participant that if s/he is satisfied with the resolution action taken, that s/he may withdraw the FH request by contacting the Office of Administrative Hearing (OAH).
- The address of the Fair Hearing Evidence Packet Unit has been updated to 14 Boerum Pl., Brooklyn, NY 11201.

POLICY An NPA FS applicant/participant has the right to request a Fair Hearing whenever s/he thinks the Agency's action is wrong. The NPA FS Office is responsible for reviewing the FH request and either resolving the issue if it determines the Agency's action was incorrect or preparing an evidence packet if the Agency's action will be defended at a Fair Hearing.

HAVE QUESTIONS ABOUT THIS PROCEDURE?
Call 718-557-1313 then press 2 at the prompt followed by 765 or
send an e-mail to *FIA Call Center*

BACKGROUND

When an NPA FS applicant/participant makes a request for a FH, the Fair Hearing Request form (**OAH-1891**), detailing the reasons for the request, is forwarded from the Office of Administrative Hearings (OAH) to the Site Manager of the responsible NPA FS Office.

NPA FS Offices are responsible for Fair Hearing resolutions and packet preparation.

NPA FS Offices are responsible for taking the following actions when a Fair Hearing is requested by one of their applicants/participants:

- reviewing the **OAH-1891** to determine what the issue(s) is/are;
- reviewing the case record and WMS to determine whether the Agency’s action was correct;
- resolving the issue(s) if the Agency’s action was determined to be incorrect or when there is insufficient documentation to support the Agency’s action;
- preparing the evidence packet to be used at the Fair Hearing. If the issue(s) is/are resolved, the evidence packet must include documentation of the resolution action. If the Agency’s action(s) will be defended, the evidence packet must include documentation to support the action taken.

Revised information

An evidence packet is required on all actions.

REQUIRED ACTION

When the Site Manager receives an **OAH-1891**, the case record is pulled and, together with the **OAH-1891**, forwarded to the Site Manager’s Designee for review. The Designee maintains the Control of Assignments/Referrals ([W-708](#)) of all **OAH-1891s** received and determines, after careful review, whether the issue should be resolved prior to a Fair Hearing or if the Agency’s actions were correct.

In instances where the case record has insufficient documentation to support the Agency’s action, the Site Manager’s Designee will ensure that the action is resolved in a timely manner (within 48 hours) of receiving the **OAH-1891**. In these instances the Designee proceeds as follows:

1. If the action can be resolved without additional documents, the Designee:
 - ensures that the case is assigned, work is completed and supervisory sign-off is obtained;
 - ensures that the work is data-entered error free in WMS by Control. The successful posting of the action in WMS will indicate that the issue has been resolved;
 - contacts the applicant/participant by telephone or mail via the **M-3g** to schedule an appointment;

“This is not a mandatory eligibility appointment” option should be checked on the [M-3g](#) if scheduling the appointment by mail.

- prepares an Action Taken on Your Food Stamps Benefits Case ([LDSS-3152 NYC](#)) for the applicant/participant and a History Sheet (**W-25**);
- prepares and sends the [EBT-23](#) to the applicant/participant to inform him/her that resolution action has been taken and that any benefits due are now available;
- informs the applicant/participant that if s/he is satisfied with the resolution action taken, that s/he may withdraw his/her FH request by calling OAH at (800) 342-3334 or signing the **OAH-457** and mailing it to the address indicated on the form;
- places the **LDSS-3152 NYC**, the **W-25**, the **EBT-23** and the **M-3g** (if applicable) in the evidence packet.

2. If the action can be resolved but additional documents are needed, the Designee:

- contacts the applicant/participant by telephone or mail via the **M-3g** to schedule an appointment for him/her to bring in the necessary documents within ten (10) days;
- when the necessary documents have been submitted, prepares and sends the **EBT-23** to the applicant/participant to inform him/her that resolution action has been taken and that any benefits due are now available;
- if the applicant/participant submits the documents in person, informs him/her that if s/he is satisfied with the resolution action taken, that s/he may withdraw his/her FH request by calling OAH at (800) 342-3334 or signing the **OAH-457** and mailing it to the address indicated on the form;
- ensures that the case is assigned, work is completed and supervisory sign-off is obtained;
- ensures that the work is data-entered error free in WMS by Control. The successful posting of the action in WMS will indicate that the issue has been resolved;
- prepares and sends the applicant/participant an **LDSS-3152 NYC**;
- places in the evidence packet the following:
 - [LDSS-3152 NYC](#)
 - [W-25](#)
 - [EBT-23](#)
 - [M-3g](#) (if applicable)
 - screen prints which show benefits have been issued to resolve FH issue(s)

Documents can be submitted in person, by mail or faxed.

Revised information

3. If the notice sent to the applicant/participant relevant to the issue is incomplete/defective or there is no documentation in the case record to support the Agency's action, the Designee:
 - withdraws the notice;
 - resolves the issue and replaces any lost benefits resulting from the original action;
 - contacts the applicant/participant by telephone or mail via the **M-3g** to schedule an appointment;
 - prepares and sends the applicant/participant an **LDSS-3152 NYC**, indicating that the original notice has been withdrawn;
 - prepares and sends the **EBT-23** to the applicant/participant to inform him/her that resolution action has been taken and that any benefits due are now available;
 - informs the applicant/participant that if s/he is satisfied with the resolution action taken, that s/he may withdraw his/her FH request by calling OAH at (800) 342-3334 or signing the **OAH-457** and mailing it to the address indicated on the form;
 - informs the corresponding unit Supervisor that the original action has been withdrawn and that if the action is still warranted, s/he must ensure that when resubmitting the action, all supporting documentation is obtained and/or the notice is accurate and complete;
 - places the [LDSS-3152 NYC](#), the [W-25](#), the [EBT-23](#) and the [M-3g](#) (if applicable) in the evidence packet.

4. In instances where the case record has sufficient documentation to support the Agency's action(s), the Designee will ensure that an evidence packet is prepared and forwarded to the Fair Hearing Evidence Packet Unit. An AJOS II/Supervisor II from FH&C will defend the Agency's action at the Fair Hearing.

Revised information

Evidence Packets

All evidence packets are forwarded to the Fair Hearing Evidence Packet Unit, located at 14 Boerum Pl., Brooklyn, NY 11201.

Revised information

If the Agency's action(s) is/are correct, the Designee prepares the evidence packet in accordance with the documentation indicated in the attached packet preparation guide.

Aid to Continue

See [Worker's Guide to Codes](#) for information on ATC codes.

If the appellant was granted Aid to Continue (ATC) and the adverse action has been resolved, the Site Manager's Designee ensures that the Fair Hearing (Aid Status) code is changed from **2** (Aid Continuing) to **1**. A Fair Hearing (Aid Status) code of **1** indicates the issue has been resolved.

PROGRAM IMPLICATIONS

Model Office Implications There are no Model Office implications.

Paperless Office System (POS) Implications There are no POS implications.

Food Stamp Implications There are no FS implications.

Medicaid Implications There are no Medicaid implications.


LIMITED ENGLISH SPEAKING ABILITY (LESA) AND HEARING IMPAIRED IMPLICATIONS

For Limited English Speaking Ability (LESA) applicants/participants, make sure to obtain appropriate interpreter services in accordance with [PD #06-12-OPE](#). For hearing-impaired applicants/participants, make sure to obtain appropriate interpreter services in accordance with [PD #06-13-OPE](#).

FAIR HEARING IMPLICATIONS

There are no Fair Hearing implications.

ATTACHMENTS

 Please use Print on Demand to obtain copies of forms.

W-204U Evidence Packet Desk Guide (Rev. 6/7/06)



Evidence Packet Desk Guide

GENERAL EVIDENCE PACKET (REDUCTION, ADEQUACY AND CLOSINGS)

Below is a list of documents required for inclusion in evidence packets relating to reductions, adequacy and closings (**3 COPIES OF EACH ARE REQUIRED**).

- Notice of Intent to Change Food Stamp Benefits (**LDSS-3620 NYC, LDSS-3621 NYC**) or CNS Notice (closing or reduction only)
- FS Budget Calculation (**WINRO153**), where necessary during relevant period; Budget Summary; Turn-Around Document (TAD) (**LDSS-3517**)
- TAD (**LDSS-3517**); FS Recoupment Case Summary; WMS Benefit Issuance Screen Printout (Screen 3)

Below are lists of documents to be included in the evidence packet, based on specific case actions. Packets must also include items from the general evidence packet listed above.

Evidence for the Specific Issues Listed Below Is in Addition to the General Evidence Listed Above.

- **Additional Evidence – Increased Income/Resources**
 - Report of increased income/resources
 - Award letter
 - Pay stubs
 - Letter from employer
 - Other documentation of income, including but not limited to: financial records, bank book, checking statement, stocks, bonds, WMS Clearance Reports, copy of page from NADA "blue book" showing vehicle value, RFI printouts
- **Additional Evidence – Decreased Needs**
 - Report of decreased needs
 - FS Change Report Form (**LDSS-3151**)
 - Other documentation relevant to the issue
 - WMS Clearance Reports
- **Additional Evidence – Adequacy Issues**
 - Applicant/participant statement of needs for relevant period
 - Statewide Common Application Form (**LDSS-2921**) or Food Stamp Benefits Application/Recertification (**LDSS-4826**)
- **Additional Evidence – Face to Face Recertification/Failure to Comply**
 - Notice of Outstanding Required Documentation (**W-120D**)
- **Additional Evidence – Face to Face Recertification/Failure to Report**
 - Notice of Food Stamp Recertification Appointment (**W-129RR**)

GENERAL EVIDENCE (DENIALS)

Below is a list of documents required for inclusion in evidence packets relating to denials.

- Statewide Common Application Form (**LDSS-2921**) or Food Stamp Benefits Application/Recertification (**LDSS-4826**)
 - Food Stamp Eligibility Determination History Sheet (**W-132A**); Action Taken on Your FS Case (**LDSS-3152 NYC**)
 - Notice of Outstanding Required Documentation (**W-120D**)
 - All documentation relevant to the issue
 - History Sheet (**W-25**)
- **Additional Evidence – Failure to Provide Verification**
 - Request for documentation or additional documents
 - Notice of Outstanding Required Documentation (**W-120D**)
 - **Additional Evidence – Excess Income/Resources**
 - Evidence of income or resources
 - FS Budget Calculation (**WINRO153**)
 - Budget Summary

SAMPLE