



FAMILY INDEPENDENCE ADMINISTRATION

Seth W. Diamond, Executive Deputy Commissioner



James K. Whelan, Deputy Commissioner
Policy, Procedures and Training

Lisa C. Fitzpatrick, Assistant Deputy Commissioner
Office of Procedures

POLICY DIRECTIVE #06-19-OPE (This Policy Directive Replaces PD #00-79)

NPA FS OFFICE FAIR HEARING RESOLUTION AND PACKET PREPARATION PROCESS

Date: June 7, 2006	Subtopic(s): Fair Hearing
------------------------------	-------------------------------------

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:

- A Policy section outlining the NPA FS Office responsibilities for Fair Hearing (FH) resolution and packet preparation has been added.
- Information regarding the previous involvement of the NPA FS Central Compliance Unit in the FH resolution and packet preparation process has been removed.
- The Notice to Report to Job Center/NPA Food Stamp Office ([M-3g](#)) should be used when contacting an applicant/participant by mail to schedule a meeting to resolve the FH issue prior to the FH.
- The Withdrawal of Fair Hearing Request form (**M-186dd**) has been obsoleted as staff should not require the applicant/participant to sign the **M-186dd** if the FH issue is resolved prior to the FH. Staff should now ask the applicant/participant to withdraw his/her FH request by calling the Office of Administrative Hearing (OAH) or signing the Schedule of Fair Hearing (**OAH-457**) and mailing it to OAH.

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*

- The Notice of Special Public Assistance and/or Food Stamp Benefit ([EBT-23](#)) should be used when informing the applicant/participant that resolution action has been taken and that any benefits due are now available.
- The telephone number for the applicant/participant to call to withdraw his/her FH request has been updated.
- The unit and address to which to send FH evidence packets has been updated.
- The attached Evidence Packet Desk Guide (**W-204U**) has been updated.

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.

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 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;
- reviewing the case record and WMS to determine whether the Agency's action was correct;
- resolving the issue 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 whenever the Agency's action will be defended at a Fair Hearing.

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-1891**s 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;
- 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;
- asks the applicant/participant to 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.

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

Revised information

Revised information

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 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, asks him/her to 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;

Revised information

Documents can be submitted in-person, by mail or fax.

Revised information

- 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 the [LDSS-3152 NYC](#), the [W-25](#), the [EBT-23](#) and the [M-3g](#) (if applicable) in the evidence packet.

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:

Revised information

- 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;

Revised information

- 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;

Revised information

- asks the applicant/participant to 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.

Revised information

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. A Supervisor II will defend the Agency's action at the Fair Hearing.

Evidence Packets

Revised information All evidence packets are forwarded to the Fair Hearing Evidence Packet Unit located at 15 Boerum Pl., Brooklyn, NY.

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)

OBSOLETE

M-186dd Withdrawal of Fair Hearing Request (Rev. 3/22/00)



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

Withdrawal of Fair Hearing Request

Today's Date: _____

Fair Hearing Number: _____

Case Name: _____ Case Cat/No: _____

Reason for Requesting Fair Hearing: _____

Action(s) Taken to Resolve Fair Hearing Issue(s): _____

Based on the above action(s), I _____ am withdrawing
Name of Appellant

from the Fair Hearing which I requested on _____ .
Date FH was requested

Appellant's Signature: _____ Date: _____

Agency Supervisor's Signature: _____ Date: _____

Retiro de Petición Para Una Audiencia Imparcial

Fecha De Hoy: _____

Número De La Audiencia Imparcial: _____

Nombre Del Caso: _____ Categoría/ Número del Caso: _____

Razón Para Solicitar La Audiencia Imparcial: _____

Acción(es) Tomadas Para Resolver Asunto De La Audiencia Imparcial: _____

Basado(h) en la acción indicada anteriormente, yo _____

Nombre del Apelanta

retiro de la Audiencia Imparcial _____.

Fecha en que la audiencia Imparcial fue solicitada

Firma del Apelelante: _____ Fecha: _____

Firma del Supervisor De La Agencia: _____ Fecha: _____