



# FAMILY INDEPENDENCE ADMINISTRATION

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## POLICY BULLETIN #05-05-OPE

### FAIR HEARING DEFAULT PROCESS

<b>Date:</b> January 13, 2005	<b>Subtopic(s):</b> Fair Hearing
<p> This procedure can now be accessed on the FIAweb.</p> <p>Role of Fair Hearing staff</p>	<p>The purpose of this policy bulletin is to advise staff of the Fair Hearing Default process. The default process includes Mandatory Dispute Resolution (MDR) cases and non-MDR cases where the appellant defaulted at the Fair Hearing.</p> <p>Currently, NYCWAY autoposts Fair Hearing disposition codes received from the Fair Hearing Information System (FHIS). Whenever a participant defaults on a Fair Hearing, NYCWAY posts the Fair Hearing Default action code <b>730</b>. This code will now:</p> <ul style="list-style-type: none"><li>• autopost a 15-calendar-day Future Action Date (<b>FAD</b>), which will give the participant time to reschedule his/her Fair Hearing.</li><li>• place the case on the Fair Hearing Disposition worklist (<b>FHDIS</b>). The Fair Hearing Representative at 14 Boerum Place in Brooklyn must access this worklist daily and take the appropriate action.</li></ul> <p>To access the default cases on the <b>FHDIS</b> worklist, the Fair Hearing Representative must:</p> <ul style="list-style-type: none"><li>• Select <b>Worklist Processing</b> from the NYCWAY <b>Master Menu</b>;</li><li>• Enter <b>FHDIS</b> in the <b>Worklist Name</b> field;</li><li>• Enter <b>730</b> in the <b>Action Code</b> field;</li><li>• Move the cursor to the <b>Transmit</b> field and press Enter.</li></ul> <p>The Fair Hearing Representative must review each case on the <b>FHDIS</b> worklist and determine whether the issue was resolved prior to the hearing by:</p> <ul style="list-style-type: none"><li>• Checking NYCWAY for the MDR outcome.</li><li>• Checking WMS to ensure that the resolution outcome (MDR and non-MDR issues) was initiated and subsequent actions completed.</li></ul>

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*

If it is determined that the issue was resolved, the Fair Hearing Representative must also determine if actions were taken to restore the participant's benefits and/or case status. Based on his/her review of NYCWAY and WMS, the Fair Hearing Representative must enter one of the following codes in NYCWAY within 24 hours of the defaulted hearing:

- Action Code **730R** (Fair Hearing & Conference [FH&C] Resolved Issue Prior to Hearing), if the issue has been resolved and all actions to restore benefits and case status have been taken. The **730R** action code will remove the case from the **FHDIS** worklist.
- Action Code **730P** (Incomplete Resolution), if the issue was resolved prior to the hearing but the action to restore benefits and/or case status is still pending (the resolution is not reflected in WMS). This action code will place the case on the Default (**DEF**) worklist.

Cases that remain on the **FHDIS** worklist for 15 days will have a **170D** posted.

If the Fair Hearing Representative does not post a **730R** or a **730P** within 15 calendar days of the **730**, NYCWAY will autopost action code **170D** (Default Period Expired) on the 16th day. Like the **730P**, Action Code **170D** places the case on the **DEF** worklist.

Role of Job Center staff

Staff at the Job Center must review the **DEF** worklist and take the appropriate action as indicated below:

The Designated Worker must retrieve the **DEF** worklist daily, review each case history listed in NYCWAY and take the necessary action.

Incomplete Resolutions

- If the participant resolved the issue prior to the Fair Hearing and the **DEF** worklist indicates action code **730P** (Incomplete Resolution), the Worker must:
  - Review the case history and/or MDR resolution outcome in NYCWAY.
  - Take the necessary action to restore benefits and/or case status. Issue retroactive benefits if necessary.
  - Enter action code **170C** (Resolution Complete) into NYCWAY. This action code will complete both the **730P** and **170D** action codes.

Default Period Expired

- If the participant's issue was not resolved prior to the Fair Hearing and the **DEF** worklist indicates action code **170D** (Default Period Expired), the Worker must:
  - Determine if Aid to Continue (ATC) was granted; if so:
    - Prepare the Fair Hearing Update Data Entry Form (**LDSS 3722**), then change the aid status from Code 2 (Aid Continuing) to Code 5 (Client Lost Fair Hearing, Agency Upheld).

WMS will automatically initiate the original action (action that prompted the Fair Hearing request).

- Complete the PA Recoupment Data Entry Form (**LDSS 3573**) to initiate recoupment from the date ATC was initiated.
- If ATC is implemented by a code **097** (Aid Continuing) reopening, initiate the original action (action that prompted the Fair Hearing request) and **suppress the notice** by entering an **A** in Element **053** (**M-3E** field) on the Turn-Around Document (**TAD**).
- If the participant was contesting employability (represented by action code **711** posted in NYCWAY) and Employment Status (ES) Code **70** (Contesting Employability) in WMS, change the ES code to **20** (Employable). In instances where the previous ES code was **64** (Substance Abuse Employable), change ES code **70** back to ES code **64**. Both codes will put the individual on the unengaged worklist.
- If it is determined that the resolution was implemented but not indicated by FH&C (**730R** or **730P** was not entered by FH&C), take the necessary action required (if any) to complete the resolution and enter action code **170C** (Resolution Complete) in NYCWAY.

**Note:** If the participant's case was closed and no ATC was granted or the Fair Hearing issue was inadequacy, no action is required.

Good Cause Granted by OTDA

If a participant reschedules a Fair Hearing and the New York State Office of Temporary and Disability Assistance (OTDA) grants good cause for the default issue, NYCWAY will autopost the Fair Hearing Reopen action code **760E**. This action code will remove the case from the **FHDIS** worklist.

Good Cause Not Granted by OTDA

If the participant attempts to reschedule the Fair Hearing but OTDA does not grant good cause, NYCWAY will autopost action code **760F** (Fair Hearing Reopen Denial). If no other action is taken on the case, the **170D** (Default Period Expired) will post after the 15-day FAD for the **730** expires. This will place the case on the **DEF** worklist.

Questions regarding the **DEF** worklist

If a Job Center Worker has any questions regarding cases that are on the **DEF** worklist, s/he should contact a Fair Hearing Representative at (718) 722-5012.

*Effective Immediately*