

either party disagrees with the Recommended Order or believes that the ALJ made a mistake, the party can submit objections (called “exceptions”) to APD within 15 days of the Recommended Order’s date. The exceptions should reference the specific paragraphs in the Order objected to and the reasons for the objections. APD will consider and rule on exceptions when it considers the Recommended Order. Usually, APD must issue a Final Order within 90 days of the Recommended Order’s date.

If you request a hearing but do not dispute the facts on which APD based its decision, APD may assign an agency employee to be the hearing officer. The agency hearing officer will tell you when and where the hearing will be held. You can appear for the hearing in person or by telephone, and you may represent yourself or be represented by an attorney or other qualified representative.

At the hearing, you will have the opportunity to explain the circumstances surrounding the facts asserted by APD and to argue for what you believe it should do, such as issue an employment exemption or impose a lower fine, for example. You may bring witnesses to the hearing to testify on your behalf and documents for APD to consider.

After your presentation, APD’s representative may question you or your witnesses. At the end of the hearing, the hearing officer will summarize the hearing and issue a Final Order.

Whether your hearing is before an APD hearing officer or an ALJ, if the Final Order is not in your favor, you have the right to appeal the decision to the appropriate District Court of Appeal within 30 days of the Final Order’s date. The Final Order will include a statement explaining your right to appeal.

At any time after a hearing is requested, the requesting party has the right to withdraw the request by informing the assigned ALJ or hearing officer in writing. Then the ALJ or hearing officer will close the case.

In accordance with the Americans with Disabilities Act, persons needing special accommodation to participate in a hearing should make a request at least seven days in advance. For DOAH proceedings, call (850) 488-9675. For APD hearings, call (850) 921-3793 or write to the APD Agency Clerk’s Office, 4030 Esplanade Way, Suite 380, Tallahassee, FL 32399-0950. Requests regarding either type of hearing can also be made via the Florida Relay Service at 1-800-955-8771 (TDD) or 1-800-955-8770 (voice).

Agency for Persons with Disabilities
4030 Esplanade Way, Suite 380
Tallahassee, FL 32399-0950
1-866-APD-CARES (1-866-273-2273)
(850) 488-4257
apdcares.org

Guide to Administrative Hearings on Issues Other Than Medicaid



Your administrative hearing *rights* for issues not related to Medicaid

Two types of administrative hearings are available to individuals substantially affected by actions of the Agency for Persons with Disabilities (APD). If APD seeks to deny, reduce, terminate, or suspend Medicaid Waiver services, the hearings are conducted by the Office of Appeal Hearings, Department of Children and Families (DCF). If APD seeks to take action that is unrelated to the Medicaid program, the hearings are conducted by either the Division of Administrative Hearings or an agency hearing officer. The purpose of these hearings is to provide an opportunity for an impartial, objective review of actions APD proposes to take in the programs it administers. This brochure discusses your administrative hearing rights for issues not related to the Medicaid program.

In compliance with Chapter 120, Florida Statutes, APD provides administrative hearings before the Division of Administrative Hearings (DOAH) when there are disputed issues of fact. If no facts are disputed, an agency hearing officer may be appointed to conduct the hearing.

A request for hearing must be in writing and must be physically received by APD (not just put in the mail) within 21 days of the date you actually receive the notice of agency action. A request received after 5 p.m. or on a day that APD is not open for business will be considered filed as of 8 a.m. the next business day. A request sent by fax

is considered filed at the time it is actually received, not when it is sent, subject to the same time limitations discussed earlier.

Section 120.54(5)(b)5, Florida Statutes, requires that your hearing request contain the following:

- The name, address, and telephone number of the person making the request and the name, address, and telephone number of the person's counsel or representative (if any) designated to receive pleadings and other official papers.
- A statement that you are requesting an

administrative hearing and dispute the facts alleged by the agency, in which case the facts in dispute must be identified; or that you are requesting a hearing but do not dispute the facts underlying the agency's decision.

- A reference to, or copy of, the agency decision and the date you received it.

If you need help in making your request, contact your APD area office.

If you disagree with the facts alleged in the agency notice, APD will forward your hearing request to DOAH with a notice

requesting assignment of an Administrative Law Judge (ALJ). For your convenience, APD will also request that the hearing be held in the area where you live. DOAH will assign an ALJ and issue an Initial Order notifying the parties of the judge's name and the DOAH case number. This will be sent to the address provided in the hearing request. If that address changes, DOAH should be notified in writing.

At least 14 days before the hearing, DOAH will issue a Notice of Hearing that states the time and place of the hearing and information about hearing procedures and the issues to be considered. APD will be represented by an attorney. DOAH has posted



information at www.doah.state.fl.us/internet/RepYourself.cfm that might be helpful if you are representing yourself. Also, APD keeps a list of possible pro bono legal resources at apdcares.org/legal-resource-listing.

Before your hearing, you can ask for copies of the documents and records that APD will be using. If you cannot attend the hearing on the date it is scheduled, you must request a continuance from the ALJ. Except for an extreme emergency, the request must be made at least five days before the scheduled hearing date. You also must contact the other party to see if they agree to a continuance and obtain other possible hearing dates.

At the hearing, both parties will be able to present their cases, bring witnesses, submit evidence, and question or refute any evidence or testimony offered by the opposing party. The ALJ is an impartial, independent person who is not employed by APD and who does not have a personal interest in the outcome of the case. A record is made of everything that is said at the hearing.

After the hearing, each party can submit a written recommendation on how the ALJ should rule. Then the ALJ will issue a Recommended Order to APD. If