

# **P-2127 Fair Hearing Procedures (continued)**

## **P-2127B Economic Services Division (ESD) Responsibilities (23-42)**

### **Included Programs**

Health Care

3SquaresVT

General Assistance

Long Term Care

Reach Up

Essential Persons

Fuel Assistance

1. **Fair hearing request received:** Customer or Representative of the customer requests a fair hearing via phone, mail, email, or in person. If a request is made through the Human Services Board (HSB), they will forward the request to the Department.
2. **Management Team Review:** Within two business days of the request, a member of the district management team will review the case and any actions taken, to ensure the case has been correctly processed.
3. **Customer Outreach:** ESD District Office will call the individual and review the decision, the rules used to determine the decision, and discuss the Fair Hearing process.
  - If the customer requests to withdraw the fair hearing, the Assistant Attorney General's office will be informed.
  - If the Fair Hearing is moving forward, the benefits will continue at the previous level pending the outcome unless the customer requests otherwise.
    - The benefits will need to be repaid if the HSB finds in the Department's favor.
4. **Submit the request:** Within three business days of the request, submit the request using the Human Services Board website:  
<https://vermont.force.com/hsb/s/submit-appeal>
  - **Expedited requests:** submit as soon as possible. All GA hearings are considered expedited
5. **Completion of Fair Hearing Information** (form 113) – Within five business days of the request, complete form 113 and supporting documents. The Fair Hearing packet is forwarded to the Program Teams for review.
  - **Expedited requests:** submit as soon as possible.

- Supporting documentation:
  - Application
  - Family Development Plan (FDP) for Reach Up case management, when appropriate
  - Case Notes
  - Budgets
  - Verification provided by individual.
  - Notice of Decision(s), including Reach Up case management letters, etc. when appropriate.
  - Any other documentation relevant to the decision
- Do not include the following in the packet:
  - Human Services Board (HSB) submission (FH request)
  - Notice of Fair Hearing from the HSB

**6. Program Team review:** Completed within 48 hours.

- If the program team reverses the decision, they inform the district office and AAG. The district office contacts the individual to explain the reversal and to ask if they would like to withdraw from the fair hearing. If so, the district informs the AAG's office of the Vermonter's request to withdraw the fair hearing and updates the case as needed.
- Last team to review forwards the final version of form 113 and documents with all email comments and clarifications to the AAG's office. This step also applies to pre-hearing reversals by the program team, including those that result in withdrawals.

**7. Fair Hearing**

- Hearings are scheduled by the HSB and they will send Notice of Hearing(s) by email to the parties which will include the district office management teams.
- The AAG's will communicate with district office staff and AOPs to find and prepare witnesses for testimony at the fair hearing.

**8. Outcome:**

- In most circumstances a fair hearing will resolve by withdrawal or by an HSB Order of Dismissal for failure to appear.

- **If the HSB issues a Recommendation**, then the AAG, AOPS and DO discuss and conclude. No further action is needed at this point from the district office. Await the HSB's formal decision (HSB Order.)
- **When a formal decision (HSB Order) is issued:** Refer to AAG's communication to determine what and when the next case action is appropriate. Ask them directly if unsure.
  - District Team will send a Fair Hearing Notice
  - If the individual prevails
    - If the individual was receiving continuing benefits, ensure their case is updated with accurate information
    - If the individual prevails at the hearing and had waived benefits, and this resulted in an underpayment, complete a Claims Referral Form.
    - ESD can choose to pursue an AHS Secretary's modification or reversal of the HSB decision. Once the modification or reversal is signed by the AHS Secretary, the fair hearing process is complete. The Petitioners have 30 days to appeal the matter to the Supreme Court. Once the Secretary Reversal is filed, benefits do not continue, and the "burden" of appeal turns to the petitioners.
    - If you are informed that the AHS Secretary has overridden the HSB's decision, send a Fair Hearing Notice and follow the instructions below.
  - If the Department prevails at the hearing or the AHS Secretary overrides the Human Services Board's decision, update the case information and enter appropriate information to make the reduction or termination in benefits.
  - If benefits were continued during the hearing and this resulted in an overpayment, complete and submit a Claims Referral Form (CRF) to the Claims Unit for calculation and collection measures. If no case action or notice is needed because the individual is told the decision at the fair hearing. For 'no shows' or other dismissals, the HSB notice applies.
- Store all FH materials in local classified electronic files.