

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

DCF

Department for Children and Families

BULLETIN NO.: 20-04

FROM: Sean Brown, Deputy Commissioner
Economic Services Division

DATE: 4/7/20

SUBJECT: All Programs Procedures

CHANGES ADOPTED EFFECTIVE 3/1/20

INSTRUCTIONS

- Maintain Manual - See instructions below.
- Proposed Regulation - Retain bulletin and attachments until you receive Manual Maintenance Bulletin: _____
- Information or Instructions - Retain Until _____

MANUAL REFERENCE(S):

P-2127B	P-2202D	P-2349C	P-2610E
P-2700 TOC	P-2724	P-2800G	

This bulletin updates the ESD Responsibilities section of the All Programs Fair Hearing Procedures and redirects other program references to the updated section.

Manual Maintenance

Vertical lines in the left margin indicate significant changes.

Dotted lines in the left margin indicate changes in formatting rather than content.

Gray highlight indicates a change in Reach Up Procedures.

References in the 3SquaresVT program manual will be updated as soon as administratively possible to refer the reader to All Programs Fair Hearing Procedures.

All Programs Procedure

<u>Remove</u>		<u>Insert</u>	
P-2127B	(B11-02)	P-2127B	(B20-04)
P-2127B2	(B11-02)	P-2127B p.2	(B20-04)
P-2127B3	(B11-02)	P-2127B p.3	(B20-04)
P-2127B4	(B11-02)	P-2127B p.4	(B20-04)
P-2127B5	(B11-02)	P-2127B p.5	(B20-04)
P-2127B6	(B11-02)	P-2127B p.6	(B20-04)
P-2127B7	(B11-02)	nothing	
P-2127B8	(B11-02)	nothing	
P-2202D	(B19-04)	P-2202D	(B20-04)
P-2349C	(B18-04)	P-2349C	(B20-04)
P-2610E1	(B89-81)	P-2610E	(B20-04)
P-2610E2	(B89-81)	nothing	
P-2700 TOC	(B91-22)	P-2700 TOC	(B20-04)
P-2724A	(B81-68)	P-2724	(B20-04)
P-2724BC	(B81-68)	nothing	
P-2724DE	(B87-46)	nothing	
P-2724F	(B81-68)	nothing	
P-2800G	(B90-22)	P-2800G	(B20-04)

P-2127 Fair Hearing Procedures (continued)

B. Economic Services Division (ESD) Responsibilities

1. **Receive the fair hearing request** from the individual or Representative of the individual via phone, mail, email or in person.
 - Never send the request to a district via TODO.
 - If received in the Benefits Service Center, the BPS emails the district management group directly with Fair Hearing in the subject line.
 - If received by the AAGs' office directly from the Human Services Board (HSB), the AAGs' office will email ESD Operations to forward to the district management group.
 - For GA, be sure to add "Expedited." In the body of the email add the individual's name and SSN only.
 - The BPS CATNs the issue or decision the individual is appealing.
2. **Report fair hearing to Senior BPS or Supervisor.** The BPS has a verbal conversation about the fair hearing (FH) with their Senior BPS or Supervisor, discussing case actions and individual's reason for appeal.
3. The **ESD employee will call the individual** and discuss the Fair Hearing process.
 - a. The ESD employee will explain the rules and make sure that the case has been correctly processed. If the individual withdraws, document the withdrawal in CATN. If the FH request came directly from the HSB via Operations, notify Marcia Garlisi of the withdrawal Marcia.Garlisi@vermont.gov.
 - b. If the Fair Hearing is moving forward, advise the individual that their benefits will continue at their previous level pending the outcome of the FH unless they request otherwise. Also advise the benefits will need to be repaid if the HSB finds in the Department's favor. During this discussion do not use language that may dissuade the individual from pursuing their appeal. Document discussion in CATN including whether the individual waived their right to continuing benefits. Resume benefits in ACCESS if individual has not requested otherwise. Benefits should also resume if the ESD employee is unable to reach the individual. Note: continuing benefits are not applicable in the GA or Fuel programs.
 - c. If the Fair Hearing is moving forward, follow step 4.

P-2127 Fair Hearing Procedures

B. Economic Services Division (ESD) Responsibilities (continued)

4. **Complete the 113H Notice of Fair Hearing Request and/or 113H-EXP Expedited Fair Hearing Request/application and denial (for GA only).**

a. Timeframes:

- 113H – within three business days of the request
- 113H-EXP – as soon as possible because all GA hearings are expedited

b. If the FH request includes both GA and other programs, process the GA fair hearing request separately from the other program appeal. Since GA is an expedited process, this needs to happen as soon as possible.

c. Be as succinct as possible as this form only makes the Board aware of the hearing and reason for the hearing. Examples:

- Individual is appealing 3SquaresVT closure for excess income.
- Individual is appealing decrease in Reach Up benefit caused by household size decrease.
- Individual is appealing decrease in Fuel benefit caused by move.
- Individual is appealing the denial for temporary housing; currently residing in an apartment and is not in need of emergency housing.

d. Emailing the form:

- 113H to the HSB and the AAG's using AHS.DCFESDFairHearingRequests@vermont.gov.
- 113H-EXP *with attached GA application and denial* notice to the HSB at AHS.COHSBContact@vermont.gov and to GA AOPs at AHS.DCFESDGAOps@vermont.gov.
- The email addresses are included on both the 113H and 113H-EXP.

e. Enter an ACCESS WARN indicating the issue under appeal and that the individual should contact AAG's office if they wish to discuss the issue being appealed.

P-2127 Fair Hearing Procedures

B. Economic Services Division (ESD) Responsibilities (continued)

5. **Completion of 113** – Within five days of the request, complete the 113 and supporting documents following the guidelines below. Note: all GA fair hearings are expedited, therefore the 113 should be completed ASAP and forwarded to the GA AOPs team at AHS.DCFESDGAAops@vermont.gov.
 - a. Assemble the materials in the following order:
 - 113
 - Application
 - FDP (RU CASE MANAGEMENT ONLY)
 - CATNs
 - Case Notes (RU CASE MANAGEMENT ONLY)
 - Budgets
 - Verification provided by individual
 - Notices
 - Appointment letters, conciliation resolutions, etc. (RU CASE MANAGEMENT ONLY)
 - Any other documentation relevant to the decision
 - b. Do not include the following in the packet:
 - 113H or 113H-EXP
 - Notice of FH from the HSB
 - c. Scan the 113 and materials to the GA team at AHS.DCFESDGAAops@vermont.gov or DCF ESD AOPS AHS.DCFESDAOPS@vermont.gov for all other programs. Follow the guidelines below.
 - Prior to scanning, make sure none of the documents are double-sided to ensure no pages are skipped nor blank pages created.
 - Email subject line must include the following: 113 review - <first name and last name of petitioner> - Programs being appealed. Examples:
 - 113 review – John Doe – GA/EA
 - 113 review – John Doe II – RUFA
 - 113 review – John Doe III – 3SVT/Fuel
6. **Complete district FH tracking spreadsheet** – fill in all columns through the process thus far.

P-2127 Fair Hearing Procedures

B. Economic Services Division (ESD) Responsibilities (continued)

7. **AOPs review –**

- a. Complete review within 48 hours.
- b. Circulate the 113 in the following order if more than one program is being appealed:
RU/3SVT/Fuel.
- c. Check for all documentation in the correct order. Insert any missing materials. Remove any blank pages. Contact the Administrative Support Unit at AHS.DCFESDASU@vermont.gov for assistance with inserting/removing pages. Provide instruction of what should be inserted/deleted and the location within the document.
- d. If another program team needs to review the 113 and supporting documentation, forward the revised materials in an email and include any comments or clarifications as well as a statement supporting or reversing the district decision.
- e. If AOPs reverses the district decision, AOPs informs the district office. The district office contacts the individual to explain the reversal and to ask if they would like to withdraw the fair hearing.
- f. Last team to review forwards to Marcia Garlisi at Marcia.Garlisi@vermont.gov the final version of 113 and documents with all email comments and clarifications and with a cc to the original district sender. This step also applies to pre-hearing reversals by AOPs, including those that result in withdrawals.

8. **Fair Hearing and Outcome –**

- a. The district that made the decision and AOPs may be asked to testify during the scheduled Fair Hearing.
- b. If the hearing officer reverses then the AAG, AOPS and DO discuss and come to a decision. This is just a verbal decision. Await the HSB's decision before taking further action on the case.
- c. In most circumstances an HSB order is required before any further case action takes place. Refer to AAG's communication to determine what and when the next case action is appropriate. Ask them directly if unsure.

P-2127 Fair Hearing Procedures

B. Economic Services Division (ESD) Responsibilities (continued)

8. **Fair Hearing and Outcome (continued)** –

d. Take case action and send notice for RU/3SVT/Fuel/EP fair hearing outcomes.

- If the individual prevails
 - send a 220FH (for 3SquaresVT, Fuel, EP or PSE appeals) or 220FH-S (for Reach Up, Reach Ahead, or Reach First appeals). Add a CATN indicating the 220FH or 220FH-S was sent. File copy in electronic district FH folder.
 - If the individual was receiving continuing benefits, no ACCESS action will be needed.
 - If the individual prevails at the hearing and had waived benefits, make retroactive payments of benefits. See [Overpayments and Underpayments SOP](#).
 - After a HSB decision in which the individual prevails, 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 220FH-S and follow the instructions below.
- If the Department prevails at the hearing or the AHS Secretary overrides the Human Services Board's decision:
 - Send a 220FH (for 3SquaresVT, Fuel, EP or PSE appeals) or 220FH-S (for Reach Up, Reach Ahead, or Reach First appeals, or AHS Secretary reversals). Add a CATN stating the 220FH was sent. File copy in electronic district FH folder.
 - ACCESS steps -
 - enter appropriate information into ACCESS to make the reduction or termination in benefits. DO NOT SEND the manual or ACCESS-generated 220 (Notice of Decision) because this notice advises individuals they have the right to appeal with continued benefits. The 220FH and 202FH-S correctly indicate that further appeals must be made to the Vermont Supreme Court.
 - compute the amount of the overpayment, if any, while the fair hearing was pending.
 - apply recoupment procedures or establish a claim as needed and as outlined by the program policy. See [Overpayments and Underpayments SOP](#).

e. No case action or notice is needed for GA/EA appeals since the individual is told the decision at the fair hearing. For 'no shows' or other dismissals, the HSB notice applies. However, a CATN must be placed on the case if a decision is reversed.

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P-2127 Fair Hearing Procedures

B. Economic Services Division (ESD) Responsibilities (continued)

8. **Fair Hearing and Outcome (continued)** –

- f. Complete remaining columns of district Fair Hearing tracking sheet with outcome of FH and final actions.
- g. Store all FH materials in local classified electronic or hard files. **Do not scan any FH material to OnBase.**
- h. Remove Fair Hearing WARN from case.

P-2202 TIME LIMITS (continued)

P-2202D Fair Hearings (Reach Up rule 2238.2) **(20-04)**

Fair Hearings Based on Eligibility Reasons

Follow [regular Fair Hearing process](#) if Fair Hearing is based on eligibility reasons.

Fair Hearings Based on 60 Month Requirements

Inform Reach Up case manager and Reach Up Supervisor through email that Fair Hearing was requested and why it was requested if Fair Hearing is based on 60-month requirements (i.e. closure due to not meeting work requirement, non-compliance, and/or 2-month break in benefits, denial based on failure to complete the 2 consecutive weeks of compliance).

P-2349 Case Management Procedures for Post-60-Month Cases (Continued)

C. Fair Hearings

1. Completing the 113.

If a participant who has closed due to not meeting post-60-month requirements requests a fair hearing, case manager is responsible for writing up Fair Hearing and submitting relevant documents according to the [All Programs Fair Hearing Procedure 2127B](#).

2. Participant requests continuing benefits before date of closure.

- a. Reach Up Supervisor enters participation code 77 on WORK C to remove penalty and enters CATN and case WARN.
- b. Reach Up Supervisor contacts district management team to re-open case and approve eligibility.
- c. Reach Up Supervisor informs participant that if the Human Services Board (HSB) rules in favor of the Department, they will be closed for two months.
- d. Case Manager continues to work with participant during the Fair Hearing process.
 - i. If during a Fair Hearing process for a 60-month closure there is another instance of non-compliance, **do not** close the case.
 - ii. Case manager should address the issue with the participant.
 - iii. The Reach Up Supervisor contacts the participant and pulls together a team meeting to try to get things back on track, and perhaps address any un-addressed barriers that may be present.
- e. Reach Up Supervisor CATNs outcome of Fair Hearing or AOPS/District reversal.
- f. If HSB rules in favor of the Department:
 - The two-month break in benefits will start as soon as administratively possible after decision is given.

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P-2610 General Eligibility Procedures (Continued)

E. Denials and Notification/Hearings

If the entire application, or any part of it, is denied, enter into GAEL and:

Give applicant DSW 220 GAD, Notice of Decision, (GA/EA Denial) which includes the reason for denial and policy citation and rights to an expedited fair hearing. Including the client's address is optional.

NOTE: DSW 220 GAD should be mailed if the client has left before the notice of denial is completed. However, all efforts should be made to give the notice to the client while he or she is in the office.

Expedited Fair Hearing

If an applicant/recipient wishes to appeal any Department decision, refer to [All Programs Fair Hearing Procedures](#).

P-2700 Policy Background

P-2710 Federally Administered AABD Supplements

- A. Application
- B. Initial and Continuing Eligibility
- C. Decision and Notice
- D. Payment

P-2711 Social Security Offices

- A. Burlington District
- B. Montpelier District
- C. Rutland District

P-2712 Interim Assistance (SSI/AABD)

- A. Policy Basis
- B. District Procedures
- C. Recovery Process

P-2713 MIL Maintenance

- A. Policy Background
- B. District Procedures
- C. MIL Adjustment (S.O. Only)

P-2720 State Administered AABD

P-2721 Application Procedures (AABD-EP Only)

- A. Application Request Response
- B. Application Acceptance

P-2722 Initial Eligibility

- A. Application Screening
- B. Data Collection, Verification, Documentation
 - 1. Review of Applicant's Statement of Need (DSW 202)
 - 2. Telephone Clearance
 - a. Before Contact
 - b. During Contact
 - c. After Contact
 - 3. Mail Clearance
- C. "Inform Applicant" Checklist
- D. Decision and Notice

P-2723 Eligibility Review

- A. Change Review
- B. Scheduled Eligibility Review
- C. "Inform Applicant" Checklist
- D. Decision and Notice

P-2724 Appeal and Fair Hearing

P-2725 Fraud Investigation and Referral

- A. District Investigation
- B. District Supervisory Review
- C. Fraud Division Review

P-2730 Eligibility Tests and Proofs

P-2731 Citizenship and Residence

- A. Citizenship
 - 1. Eligibility Test (AABD-EP)
 - 2. Proof Sources
- B. State Residence
 - 1. Eligibility Test (AABD-EP)
 - 2. Proof Sources
- C. Institutional Residence
 - 1. Eligibility Test (AABD-EP)
 - 2. Proof Sources

P-2732 Age, Blindness, or Disability

- A. Age
 - 1. Eligibility Test (AABD-EP)
 - 2. Proof Sources
- B. Blindness or Disability
 - 1. Eligibility Test (AABD-EP)
 - 2. Proof Sources
 - a. SSI/AABD Recipient
 - b. Former SSI/AABD Recipient
 - c. Social Security Recipient
 - d. Medicaid Recipient
 - e. Former Medicaid Recipient

P-2733 Financial Need

- A. Assistance Group
 - 1. Eligibility Test (AABD-EP)
 - 2. Proof Sources-Eligible Member(s)
 - 3. Proof Sources-Essential Person Member
- B. Resources
 - 1. Eligibility Test
 - 2. Proof Sources
 - a. Savings, Cash, Investments
 - b. Real Estate
 - c. Vehicles
- C. Income
 - 1. Eligibility Test
 - 2. Proof Sources
 - a. Social Security, Pensions and Benefits
 - b. Alimony, Support, Contributions
 - c. Earnings (Wages and Self-Employment)
 - d. Other Income

P-2734 Replacing Essential Person Checks

- A. Lost/Stolen Checks
- B. Death of EP Recipient

P-2740 Payment Maximums

- A. SSI/AABD Payment Maximums
- B. AABD-EP Payment Maximums

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P-2724 Appeal and Fair Hearing

If an applicant/recipient wishes to appeal any Department decision, refer to [All Programs Fair Hearing Procedures](#).

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P-2800G

P-2800 Emergency Assistance to Families with Children (Continued)

G. EA Expedited Fair Hearings

If an applicant/recipient wishes to appeal any Department decision, refer to [All Programs Fair Hearing Procedures](#).