

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

DCF

Department for Children and Families

BULLETIN NO.: B22-04

FROM: 
Tricia Tyo, Deputy Commissioner
Economic Services Division

DATE: 02/09/22

SUBJECT: Fair Hearing Procedures

CHANGES ADOPTED EFFECTIVE 02/15/2022

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-2127

Updated how requests for fair hearing are submitted to the Human Services Board; the Form 113H is no longer used, requests are submitted through the HSB Portal.

Included directions on redacting Social Security Numbers.

Manual Maintenance

Vertical lines in the left margin indicate significant changes.

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

Fair Hearing Procedure

Remove

Insert

P-2127B (20-04)

P-2127B (B22-04)

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.

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

4. **Submit the request using the Human Services Board website:**

<https://vermont.force.com/hsb/s/submit-appeal> (previously forms 113H and 113H-Exp)

a. Timeframes:

- Within three business days of the request
- Expedited requests, as soon as possible. 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 submission 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. Notifications:

- When submitting the request, be sure to include the following people and groups.
 - District Office Management Team
 - Marcia Garlisi (AAG's office) Marcia.Garlisi@vermont.gov
- **Expedited Requests** attach the GA application and denial notice to submission and add GA AOPs at AHS.DCFESDGAAops@vermont.gov to the notification group.

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.

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

5. **Completion of Fair Hearing Information (form 113)** – Within five days of the request, complete form 113 and supporting documents following the guidelines below.
 - Note: all GA fair hearings are expedited, therefore the 113 should be completed ASAP and emailed to the GA AOPs team at AHS.DCFESDGAAops@vermont.gov
 - a. Only the last four digits of the Social Security Number should be included; redact the first five digits from all documents.
 - b. Assemble the materials in the following order:
 - Form 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
 - c. Do not include the following in the packet:
 - Human Services Board submission
 - Notice of FH from the HSB
 - d. Compile the 113 and materials and email to the appropriate AOPS group following the guidelines below:
 - a. GA fair hearing: AHS.DCFESDGAAops@vermont.gov
 - b. All other programs: AHS.DCFESDAOPS@vermont.gov
 - Compiled documents should include all pages, front and back, and no blank pages (caused by scanning). It should be a singular document.
 - 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
 - 113 and materials should not be sent to Human Services Board.

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

6. **Complete district FH tracking spreadsheet** – fill in all columns through the process thus far.
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. Redact any SSNs that were not initially redacted.
 - 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.
 - If multiple items in the 113 and material need to be corrected, send back to the district staff who submitted the 113 for correction.
 - 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.

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

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

- 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.
- 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](#).

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

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

- 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.
- 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.