

**Sec. 16a-41-42. Appeals**

(a) Desk Review

(1) A desk review is allowed when:

(A) An applicant household has been denied assistance;

(B) An applicant/service recipient household is aggrieved because the service provider agency failed to notify the household of the status of their application within the program year.

(C) A service recipient household is aggrieved because it believes that not enough weatherization work was completed or the weatherization work was done incorrectly.

(2) Process for a Desk Review

(A) A request for a desk review shall be in writing to the executive director of the service provider agency and shall be signed by the aggrieved. The request shall include a statement of the grievance.

(B) A request for a desk review shall be mailed within ten (10) days, excluding State designated holidays, of the mailing date of the decision being appealed or within ten (10) days, excluding state designated holidays, of the occurrence, but no later than the end of the program year.

(C) The executive director, or any supervisor he designates, none of whom has participated in the original decision regarding the recipient's eligibility, shall make a finding based on the desk review.

(D) The applicant/service provider may withdraw the request if a satisfactory resolution has been determined.

(E) Within fifteen days, excluding state designated holidays, from the date of the receipt of the request, the service provider agency person in charge of the review shall make a decision based on an evaluation of the evidence as submitted at the time of application and shall notify the recipient in writing, on a form provided by the Department of Human Resources, of the decision. This written statement shall include the following if the decision is adverse:

(i) over income

(ii) application incomplete

(iii) inadequate documentation

(iv) other

(F) If the decision is adverse to the applicant/service recipient, he shall be informed and afforded the right to make a written request for a departmental hearing within fifteen working days of the notification of such adverse decision. The applicant/recipient requesting such hearing may choose either a review by the departmental hearing officer of the record of the evidence of the desk review to determine whether the decision of the agency person in charge of the desk review was supported by substantial evidence in the record, or a new hearing (DE NOVO) in which the recommendation of the departmental hearing officer is based exclusively on evidence and other material introduced at the departmental hearing.

(b) Departmental Hearings

(1) An applicant/service recipient who remains aggrieved following a desk review may appeal that decision, in writing, within ten (10) working days of the notification of such decision.

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(2) An applicant or a service provider agency who is aggrieved by a decision of fraud or overpayment may appeal that decision within ten (10) working days of receipt of notification of fraud or overpayment.

(3) All appeals must be sent to the Commissioner of the Department of Human Resources.

(4) Upon receipt of a request for a hearing the Commissioner shall designate a hearing officer.

(5) All appeals received shall be acknowledged by the hearing officer.

(6) The hearing officer shall schedule a hearing within thirty (30) working days of the date the appeal is received by the Commissioner.

(7) Continuances or changes in scheduled hearings shall be granted by the hearing officer only for good cause but must be rescheduled within thirty (30) working days of the originally scheduled hearing. The appellant may withdraw the appeal, in writing to the hearing officer, at any time prior to the hearing.

(8) The hearing officer shall be in charge of the proceedings.

(9) The appellant shall act as a witness in his own behalf, and may bring additional witnesses. The respondent may be represented at the hearing or may choose not to be represented.

(10) Each hearing will be closed to the public. Witnesses may be sequestered at the discretion of the hearing officer. The hearing officer may exclude any person who engages in disruptive conduct, including individuals directly involved with the hearing.

(11) Testimony may be given by the appellant and his witnesses and by the respondent in response to questions asked by the hearing officer. Testimony may be freely given so long as it is reasonably relevant to the questions asked and is offered in a proper manner. The technical rules of evidence do not apply, although testimony is required by law to be given under oath. If the appellant is represented by legal counsel, his direct testimony is usually given in response to his attorney's questions. His attorney may also question the designee of the service provider agency. The appellant who is not represented by counsel may ask questions which are answered by the hearing officer or directed by him in turn to a departmental or service provider agency representative.

(12) Exhibits may be introduced by the appellant or the respondent or other witnesses to substantiate or amplify their oral testimony. For example, wage slips and other papers or records may be introduced, if relevant to the case. If the individual wishes to retain possession of a document introduced as an exhibit, the substance of it may be dictated into the record by the hearing officer. The appellant has the right to examine all documents and records used at the hearing at any reasonable time before or during the hearing.

(13) Any change in circumstances which occurs in the case after a hearing has been held shall have no effect on the hearing decision.

(14) The hearing officer has the power to compel the attendance and testimony of witnesses and the production of books and papers where such action becomes necessary.

(15) A mechanical recording of the proceedings shall be made for use by the hearing officer as a basis for this decision and shall be retained for a period of sixty (60) working days following the hearing. A transcript of the recording shall be made available to the appellant or the respondent upon request to the Commissioner, at cost to the requester,

subject to the provisions of Section 1-15 of the Connecticut General Statutes.

(16) Within forty-five (45) working days from the hearing date, the hearing officer shall make a decision based on an evaluation of the testimony and exhibits introduced at the hearing. Such decision shall supersede the decision by which the appellant was aggrieved. The decision of the hearing officer represents a final and positive finding with respect to the point or points at issue as of the date of decision being appealed.

(17) A formal memorandum of decision shall be prepared by the hearing officer and sent to the appellant and the respondent. If the appellant or the respondent or both has been represented by legal counsel at the hearing, a copy of the memorandum of decision shall be sent to that attorney. Such memorandum shall include a statement of the point or points at issue at the time the hearing was requested and a summary of related facts, specific provisions of law and policy applicable to the case and the reasoning on which the decision is based and conclude with a statement of the decision.

(18) The right of appeal to a decision of the hearing officer to the Superior Court is governed by Section 4-183 of the Connecticut General Statutes.

(c) Departmental Hearings Appeal Process

(1) The appeal process is designed to allow for the resolution of the matter prior to a hearing if possible.

(2) All appeals will be remanded for review to the service provider agency that certified the application.

(3) The results of the review shall be forwarded to the hearing officer for determination as to the merits of the original appeal.

(4) Appellants will be notified by the hearing officer of the results of the review and be afforded an opportunity, if appropriate, to withdraw his or her appeal.

(d) Desk Review and Departmental Disposition of Appeals

(1) Appeals may be withdrawn by the person making them. This action shall be voluntary and may be made at any time prior to the hearing by written statement of such action addressed to the hearing officer. All withdrawals shall be acknowledged in writing by the hearing officer.

(2) A hearing request may be dismissed by the hearing officer if:

(A) The appellant fails to appear at the designated place and time on the appointed date; or,

(B) The point at issue is resolved prior to the hearing and the request is not voluntarily withdrawn by the appellant. A written notice of dismissal shall be sent by the hearing officer to the appellant.

(3) Once a hearing is held, the hearing officer shall issue a decision in accordance with Section 16a-41-42 (b) (8) or Sections 16a-42 (b) (15) and (16).

(Effective August 25, 1986)