

TABLE OF CONTENTS

Fair Hearings

Scope of regulations 17a-90- 1

Definitions 17a-90- 2

Right to a fair hearing 17a-90- 3

Fair hearings on medical benefits 17a-90- 4

Written notice of department action and right to a fair hearing 17a-90- 5

Request for a fair hearing 17a-90- 6

Continuation of benefits pending a fair hearing decision. 17a-90- 7

Agreement to reduce, suspend or discontinue benefits 17a-90- 8

Scheduling of fair hearing 17a-90- 9

Procedures and conduct of the fair hearing 17a-90-10

Confidentiality of case records 17a-90-11

Record of the fair hearing 17a-90-12

Disposition and decision 17a-90-13

Fair Hearings

Sec. 17a-90-1. Scope of regulations

The following regulations apply to Fair Hearings scheduled at the request of the parent, guardian or other caretaker, or the youth 16 years of age or older, when the person is aggrieved by the denial, suspension, reduction or discontinuance of a cash benefit or a vendor payment on behalf of the child or youth.

(Effective February 1, 1994)

Sec. 17a-90-2. Definitions

(a) Department means the Department of Children and Families.

(b) Commissioner means the Commissioner of the Department of Children and Families.

(c) Benefit means a cash benefit to the child or caretaker or a vendor payment to a service provider on behalf of the child.

(d) Client means a youth 16 to 18 years of age, parent, guardian or other caretaker.

(e) Caretaker means foster parent, adoptive parent, facility director or other person in authority where the child resides.

(f) Hearings Unit means staff within the Department designated by the Commissioner to coordinate or conduct administrative hearings.

(Effective February 1, 1994)

Sec. 17a-90-3. Right to a fair hearing

Fair Hearing requirements apply to:

(a) Department initiated actions to suspend, reduce or discontinue benefits to the child or youth receiving services from the Division of Children's and Protective Services, and who is in placement away from his own home, such as in foster care or independent living.

(b) Denial or reduction of special rate foster care payments.

(c) Denial of client initiated requests for placement and other benefits on behalf of children or youth not committed to the department.

(d) Denial, reduction or discontinuance of adoption subsidy.

(e) Denial of requests for payment of special needs such as, but not limited to, clothing and transportation.

(f) Cases where the parents or guardian and the Department disagree regarding the amount of contribution or application of the child's or youth's income toward the cost of foster care or institutional expenses associated with the placement of a child or youth.

(Effective February 1, 1994)

Sec. 17a-90-4. Fair hearings on medical benefits

The Department will not provide fair hearings relating to benefits paid and administered by other agencies of the state of Connecticut, such as, but not limited to, medical benefits administered by the Department of Income Maintenance.

(Effective February 1, 1994)

Sec. 17a-90-5. Written notice of department action and right to a fair hearing

(a) Written notice of the Department's proposed action will be given to the client as follows:

(1) For the youth 16 years of age and over—directly to the youth.

(2) For committed children under 16—to the foster parent, group home director, or other caretaker.

(3) For children under 16 who are not committed—to the parent or guardian.

(b) The written notice to the client shall cite this regulation and sections § 46b-129f and § 17a-90 of the Conn. General Statutes, state what action the Department proposes to take, the reason for the action, the effective date of the proposed action, the right to a Fair Hearing, and the date by which the Fair Hearing must be requested.

The notice shall also include the provisions to be followed by clients seeking continuation of benefits in accordance with Section 7 of this regulation.

(c) Such written notice must be mailed or given to the client at least ten (10) days before the action is taken.

(Effective February 1, 1994)

Sec. 17a-90-6. Request for a fair hearing

(a) Any client aggrieved by a decision of the Department with respect to actions taken under section 3 of these regulations may request a Fair Hearing.

(b) The request for a Fair Hearing on the Department's action must be received by the Hearings Unit no later than sixty (60) days after the date written notice was mailed or given to the client.

(c) A request to have benefits continue pending the Fair Hearing decision must be mailed to the Hearing Unit no later than ten (10) days after the date written notice was mailed to or given to the client.

(d) All Fair Hearing requests must be mailed to the Department of Children and Families, HEARINGS, 170 Sigourney Street, Hartford, CT 06105.

(Effective February 1, 1994)

Sec. 17a-90-7. Continuation of benefits pending a fair hearing decision

In those cases where the client seeks to have benefits continue pending a Fair Hearing decision, the following will apply:

(a) The request for a hearing must be signed by the client and postmarked within ten (10) days after the date the worker mails the notice of proposed action.

(b) In no instance will the benefit continue if the hearing is not requested within the ten (10) day period.

(c) All recurring benefits, subsidies or payments are subject to continuation pending a Fair Hearing decision.

(d) If the Fair Hearing decision upholds the Department and the benefit is continued beyond the date of eligibility, the client may be required to reimburse the Department based on such factors as the client's ability to pay and/or the circumstances of the overpayment. Notice of this requirement will be provided to the client prior to the Fair Hearing.

(Effective February 1, 1994)

Sec. 17a-90-8. Agreement to reduce, suspend or discontinue benefits

The department will not take action on the benefit until after the ten (10)-day advance notice period has expired, unless the client has waived in writing a request for a Fair Hearing.

(Effective February 1, 1994)

Sec. 17a-90-9. Scheduling of fair hearing

(a) The hearing will be scheduled within thirty (30) days after the date the request is received by the Hearings Unit. Priority will be given to scheduling hearing requests in which payments are on-going pending decision. A hearing may be postponed by

the Hearings Unit at the request of the attorney, the client or department staff members, for good reason shown.

(b) The Hearings Unit will set a time and place for the hearing which to the extent possible is convenient to all parties.

(c) The Hearings Unit will send written notice at least five business days in advance of the date set for the hearing to the following as applicable: youth, his parent(s) or other caretaker, respective attorney or advocate, staff members who will represent the Department.

(d) This notice will include a copy of the notice set forth in Section 5-b above and will state the time and place of hearing, the right of the child, youth, parent or other caretaker to be represented by an attorney at his own expense, the nature and purpose of the hearing, and the principal issues that will be considered.

(Effective February 1, 1994)

Sec. 17a-90-10. Procedures and conduct of the fair hearing

(a) Fair Hearings shall be conducted pursuant to the Uniform Administrative Procedures Act—General Statutes 4-177 through 4-183, inclusive.

(b) The Hearing Officer is an impartial designee of the Commissioner and has overall responsibility for conducting the hearing and will: (a) ensure that the hearing is conducted in an orderly manner; (b) afford all parties the opportunity to present evidence fully and cross-examine witnesses; (c) administer oaths; (d) rule on objections, motions and relevancy of evidence; (e) grant continuances where necessary; (f) permit informal resolution of issues; and (g) decide any matters that will promote the quality of the hearing.

(c) The client shall be permitted to bring an attorney or other representative, witnesses and consultants, at his expense, and may bring reports, and other documents to support his position.

(d) The attorney or representative for the client may assume full responsibility for presenting the case or assist the client in his own presentation. At the same time, the Fair Hearing is an informal process that promotes openness and full discussion by the participants rather than restriction of information.

(e) The regional office representative(s): (a) must be prepared to present evidence at the hearing that supports the Department's position; (b) shall prepare a summary of facts which will be available to the parties and their respective attorneys prior to the hearing; and (c) must bring the case record to the hearing in an organized and easily referenced condition.

(f) Witnesses for the client or the Department shall be called to testify at the appropriate time and generally do not remain for the entire hearing.

(g) Interpreters and observers may be present at the hearing where appropriate.

(Effective February 1, 1994)

Sec. 17a-90-11. Confidentiality of case records

(a) In accordance with Conn. General Statute § 17a-28, prior to the hearing the Department will provide the client or his representative access to the child's case record upon request, unless the Commissioner determines that it is contrary to the best interest of the child or client to personally review any or all of the record in which case he may refuse access. The child's or youth's attorney shall have unrestricted access to the child's or youth's case record.

(b) At the hearing the complete record shall be introduced as evidence but the Hearing Officer as designee of the Commissioner, shall rule upon what information can be shared with the client or his representative.

(Effective February 1, 1994)

Sec. 17a-90-12. Record of the fair hearing

(a) The Hearings Unit shall maintain records of hearings and any hearing request including:

- (1) a record of any informal resolution prior to a hearing;
- (2) tape recording of the hearing;
- (3) notation or copies of all motions and rulings;
- (4) copies of notices of hearing;
- (5) Memorandum of Decision;
- (6) other correspondence and information.

(b) The proceedings of the entire hearing shall be taped and the tapes kept in a confidential manner by the Hearings Unit.

(Effective February 1, 1994)

Sec. 17a-90-13. Disposition and decision

(a) The Hearing Officer shall deliver a Memorandum of Decision within ninety (90) days following the close of evidence and filing of briefs to the:

- (1) appropriate division director;
- (2) administrator of the regional office;
- (3) child, parent or other caretaker requesting the hearing;
- (4) respective attorney(s); and
- (5) the Hearing Unit (file).

(b) The Memorandum of Decision shall contain:

- (1) the names of persons present;
- (2) the issues that were the basis for hearing;
- (3) the provisions of law and policy applicable to the case;
- (4) a summary of evidence relied on in making the decision;
- (5) findings of fact;
- (6) rulings on motions and objections;
- (7) a clear, concise statement of the reasoning on which the decision is based;
- (8) the decision, including corrective action if any;
- (9) notice of right to appeal the decision under Conn. General Statute 4-183.

(Effective February 1, 1994)