ORANGE COUNTY SOCIAL SERVICES AGENCY
CFS OPERATIONS MANUAL

Effective Date: February 1, 1985 **Number: B-0122**
Revised: August 6, 2009
Revised: July 7, 2010
Revised: March 13, 2013

State Hearings

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Purpose

To provide guidelines for responding to requests for state hearings.

Approved

This policy was approved by Gary Taylor, Director of CFS, on March 13, 2013. *Signature on file*.

Most Recent Revision

This revision of the Policy and Procedure (P&P) incorporates guidelines set forth in the Harris v. California Department of Social Services (CDSS) et al (2012) decision. The Harris decision determined that a grievance hearing does not meet constitutional standards for adequate due process when a relative/non-relative extended family member (NREFM) is denied a home assessment or approval.

The Harris decision requires that a Notice of Action (NOA) be provided to a relative/NREFM who is denied a home assessment or approval. The NOA explains the reason why the home assessment was denied and provides the steps the client may take to file an appeal of the denial. This appeal process (known in Orange County as a Harris hearing) is a type of state hearing which provides clients with due process rights when there is a disagreement with a decision.

Background

The Social Services Agency (SSA) is responsible for providing NOAs to clients of the right to request a state hearing. This right is explained in writing on the back of all NOAs.

State hearings are an administrative, informal appeal process available to clients who are dissatisfied with services or financial aid benefits that have been denied, changed, or terminated.

Services may include Voluntary Family Services (VFS), Informal Supervision (WIC 301), or relative/NREFM placement assessments. Financial aid benefits may include California Work Opportunity and Responsibility to Kids (CalWORKs), Medi-Cal, AFDC-FC, Kin-GAP, AAP, or Emergency Assistance (EA) program.

State hearings can be completed by video conference, telephone, or in person.

Pursuant to CDSS Manual of Policies and Procedures (MPP), Division 22-000.1, the state (CDSS) and the county have joint responsibility for providing a full and impartial hearing.

The state oversees the administration of the hearing process.

The county:

- Receives hearing requests
- Identifies an appeals representative
- Investigates claims
- Assists claimants prior to the hearing
- Presents the county's position during the hearing
- Communicates hearing results to CFS staff
- Helps to ensure compliance with state hearing decisions

SSA Program Integrity (PI) staff receive and coordinate requests for state hearings including Harris hearings. PI staff act as the appeals representative for all state hearings except Harris hearings. In Orange County, the appeals representative for Harris hearings is a designated Senior Social Services Supervisor (SSSS) within the Placement Coordination Services (PCS) program in CFS, who was not involved in the denial of the home assessment/approval.

Note: State hearings cannot be used to change court orders.

This policy does not apply to:

A. CFS decisions about placement or removal of a foster child. See CFS P&P Placement Grievance Review (K-0206).

B. Child custody or case plan orders issued by Juvenile Court.

C. Grievances related to the Child Abuse Central Index (CACI). See CFS P&P Grievance Reviews for Child Abuse Central Index (CACI) Submissions (A-0301).

D. Discrimination complaints. See CFS P&P Client Rights (B-0105).

E. Complaints about Supplemental Security Insurance (SSI) or Retirement, Survivors, Disability Insurance (RSDI) benefits.

Definitions

For purposes of this P&P, the following apply:

Notice of Action (NOA): A state form which notifies clients of action the county intends to take, reasons for the action, and provides an explanation about the client's right to request a state hearing in their declared primary language, when possible.

Administrative Law Judge (ALJ): A person designated to conduct state hearings.

***Administrative Review Acco (F063-73)*:** The Acco on which appeals documentation is filed.

Appeal: A request for a state hearing.

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Appeals Representative: County staff who resolve requests for state hearings. The appeals representative assumes the major responsibility for investigating, communicating, preparing, and presenting the case. Pursuant to Division 22-73.13, the county representative will not have had immediate prior involvement with the case.

Claimant: A person who has requested a state hearing and is, or has been, an applicant/recipient of aid; a relative/NREFM, foster parent, or foster care provider (on behalf of a child residing with them), a representative of the estate of a deceased applicant/recipient, a child's relative caregiver, guardian, or sponsor of an alien.

Conditional Withdrawal (CWD): When the claimant and county enter into an agreement in which the claimant withdraws their request for hearing based on certain conditions that the county and/or claimant must meet. Usually, action is required within 30 days of the signed withdrawal form.

Filing Date: The date the hearing request is postmarked, if mailed, or the date it is received when hand-delivered.

Unconditional Withdrawal: When the claimant withdraws the hearing request/appeal without conditions. Also referred to as a Full Withdrawal (FWD).

POLICY

Notice of Action (NOA)

Clients are advised of their right to a state hearing through receipt of a NOA.

A client may file an appeal by completing the back of the NOA and submitting, per direction provided on the form.

Typically CFS staff are involved in state hearings generated by the following types of NOAs:

- *Child Welfare Services Notice of Action (NA 981 or NA 982)* provided to clients receiving voluntary services. Refer to CFS P&P Voluntary Family Services and Informal Supervision (M-0106)
- *Denial of Home Assessment/Approval (NA 1271)* provided to clients denied a relative/NREFM assessment or approval. Refer to CFS P&P Relative/NREFM Placement Assessment (K-0105)

Note: Foster Care Eligibility provides NOAs when there is a change or termination of financial aid benefits.

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CFS Staff Responsibilities

Per CFS policy, CFS staff will:

A. Forward hearing requests received from claimants promptly to SSA Program Integrity (Bldg. 180) for state and Harris hearings.

Note: Per Division 22-001 (f)(1), to document the filing date, staple the envelope to the request and note the date received and staff name.

B. Be available for consultation, case staffing, and to testify as requested by the appeals representative.

C. Refer claimants to speak to the assigned appeals representative for questions and comments about their hearing request.

D. Immediately follow directives received by the appeals representative after the hearing is completed, per Division 22-078.1.

E. Document actions taken or directives received in the case file, including CWS/CMS contacts.

F. File the *Administrative Review Acco (F063-73)* in the child's service file when received from the county appeals representative.

Appeals Representative Responsibilities

Per Division 22, the appeals representative will:

A. Notify the state of a hearing request in a timely manner.

B. Communicate with the claimant and staff.

C. Attempt to resolve complaints at the lowest possible administrative level, pursuant to ACIN I-12-09.

The case may be resolved with a CWD prior to the hearing if it is determined that the county action is incorrect or not supported by sufficient evidence. The claimant can also withdraw a hearing request without conditions.

D. Develop a position statement summarizing the facts of the case.

E. Prepare and present the county position at hearings.

F. Communicate state hearing results and/or actions to the appropriate staff.

Forward the *Administrative Review Acco (F063-73)* to the assigned social worker for inclusion in the child's service file.

REFERENCES

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Attachments and CWS/CMS Data Entry Standards

Hyperlinks are provided below to access attachments to this P&P and any CWS/CMS Data Entry Standards that are referenced.

None.

Hyperlinks

Staff accessing this document by computer may create a direct connection to the following references by clicking on them.

- CFS P&P Voluntary Family Services (VFS) and Informal Supervision (M-0106)
- CFS P&P Placement Grievance Review (K-0206)
- CFS P&P Grievance Reviews for Child Abuse Central Index (CACI) Submissions (A-0301)
- CFS P&P Client Rights (B-0105)
- CFS P&P Relative/NREFM Placement Assessments (K-0105)
- California Department of Social Services, “How to Ask for a Hearing”

Other Sources

Other printed references include the following:

None.

FORMS

Online Forms

Forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

Form Name	Form Number
Denial of Home Assessment/Approval	NA 1271
Denial of Home Assessment/Approval (Spanish)	NA 1271 (Sp)

Hard Copy Forms

Forms listed below will be completed in hard copy (including multi-copy NCR forms). ***For reference purposes only,*** links are provided to view these hard copy forms, where available.

Form Name	Form Number
Administrative Review Acco	F063-73

CWS/CMS Forms

The following forms may **only** be obtained in CWS/CMS. ***For reference purposes only,*** links are provided to view these CWS/CMS forms, where available.

Form Name	Form Number
Child Welfare Services Notice of Action	NA 981
Child Welfare Services Notice of Action (Spanish)	NA 981 (Sp)
Child Welfare Services Notice of Action	NA 982
Child Welfare Services Notice of Action (Spanish)	NA 982 (Sp)

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Brochures Brochures to distribute in conjunction with this procedure include:

Brochure Name	Brochure Number
None.	

LEGAL MANDATES

45 Code of Federal Regulations (CFR) Section 205.10 requires CDSS to issue and publicize hearing procedures for applicants and recipients served by public assistance programs.

CDSS MPP Division 22 documents state regulations that meet the federal requirements in 45 CFR 205.10 for state hearings.

Welfare and Institutions Code (WIC) Sections 10950–10967 outlines requirements of state hearings to be made available to public social service applicants or recipients dissatisfied with an action of the county agency.

Eligibility and Assistance Standards Manual, Division 40-107(e) mandates notification of the right to a state hearing when aid is granted, denied, or changed. It also requires counties to make every effort to resolve the problem when a complaint is received and to assist when a state hearing is requested.

All County Information Notice (ACIN) I-12-09, dated February 4, 2009, confirms the authority of the county appeals representative to resolve a case at the lowest possible administrative level on behalf of the county, either before or during a state hearing.

All County Letter (ACL) 98-58, dated July 31, 1998, gives counties responsibility for developing and documenting county policies and procedures and presenting them at state hearings.

All County Letter (ACL) 12-71, dated December 14, 2012, provides background and guidelines for completing a NOA for relatives or NREFMs who have been denied an assessment or approval.

Harris v. California Department of Social Services (CDSS) et al (Sacramento County Superior Court Case No. 34-2010-80000438-CU-WM-GDS) (2012) requires a NOA be provided to a relative or NREFM who was denied a home assessment including those denied based on the lack of relative/NREFM standing. The NOA provides relative/NREFMs with due process under WIC 10950.

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