

§ 155.535 Informal resolution and hearing requirements.

(a) *Informal resolution.* The HHS appeals process will provide an opportunity for informal resolution and a hearing in accordance with the requirements of this section. A State Exchange appeals entity may also provide an informal resolution process prior to a hearing. Any information resolution process must meet the following requirements:

- (1) The process complies with the scope of review specified in paragraph (e) of this section;
- (2) The appellant's right to a hearing is preserved in any case in which the appellant remains dissatisfied with the outcome of the informal resolution process;
- (3) If the appeal advances to hearing, the appellant is not asked to provide duplicative information or documentation that he or she previously provided during the application or informal resolution process; and
- (4) If the appeal does not advance to hearing, the informal resolution decision is final and binding.

(b) *Notice of hearing.* When a hearing is scheduled, the appeals entity must send written notice to the appellant and the appellant's authorized representative, if any, of the date, time, and location or format of the hearing no later than 15 days prior to the hearing date unless—

- (1) The appellant requests an earlier hearing date; or
- (2) A hearing date sooner than 15 days is necessary to process an expedited appeal, as described in § 155.540(a), and the appeals entity has contacted the appellant to schedule a hearing on a mutually agreed upon date, time, and location or format.

(c) *Conducting the hearing.* All hearings under this subpart must be conducted—

- (1) At a reasonable date, time, and location or format;
- (2) After notice of the hearing, pursuant to paragraph (b) of this section;
- (3) As an evidentiary hearing, consistent with paragraph (e) of this section; and
- (4) By one or more impartial officials who have not been directly involved in the eligibility determination or any prior Exchange appeal decisions in the same matter.

(d) *Procedural rights of an appellant.* The appeals entity must provide the appellant with the opportunity to—

- (1) Review his or her appeal record, including all documents and records to be used by the appeals entity at the hearing, at a reasonable time before the date of the hearing as well as during the hearing;
- (2) Bring witnesses to testify;

(3) Establish all relevant facts and circumstances;

(4) Present an argument without undue interference; and

(5) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(e) *Information and evidence to be considered.* The appeals entity must consider the information used to determine the appellant's eligibility as well as any additional relevant evidence presented during the course of the appeals process, including at the hearing.

(f) *Standard of review.* The appeals entity will review the appeal *de novo* and will consider all relevant facts and evidence adduced during the appeals process.

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