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Title 22@ Social Security

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Division 13@ Department of Child Support Services

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Chapter 10@ Complaint Resolution

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Article 3@ State Hearing

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Section 120220@ Rehearing

120220 Rehearing

(a)

The complainant or the local child support agency shall have the right to file a written request for rehearing with the State Hearing Office no later than 30 days after receipt of the adopted decision. The rehearing request shall contain a statement regarding the date the adopted decision was received. In the absence of such statement, the date of receipt shall be either three business days after the date of the postmark on the envelope containing the decision, or three business days after the date the decision was released by the Department or the State Hearing Office, whichever is later.

(b)

The filing date of the rehearing request shall be the postmark on the envelope containing the rehearing request. If the postmark on the envelope is unreadable, the filing date shall be the date the request for rehearing is signed. If the postmark is unreadable, and the request for rehearing is undated, the filing date shall be three business days prior to the date the rehearing request is stamped "received" by the State Hearing Office.

(c)

If the rehearing request is to permit presentation of additional evidence, the request shall: (1) Describe the additional evidence. (2) State why it was not previously introduced. (3) Explain its materiality. (4) Explain how the additional

evidence will change the outcome of the hearing decision.

(1)

Describe the additional evidence.

(2)

State why it was not previously introduced.

(3)

Explain its materiality.

(4)

Explain how the additional evidence will change the outcome of the hearing decision.

(d)

Upon receipt of a rehearing request filed within the time frame specified in subsection (a), the State Hearing Office shall mail a copy of the request to the other party to the hearing. The other party shall be permitted to file a statement supporting or opposing the rehearing request. Such statement from the other party shall be in writing and shall be filed with the State Hearing Office no later than 10 business days after the mailing.

(e)

The Director or Director's designee shall grant or deny the rehearing request no earlier than 10, nor later than 20, business days after it is received by the State Hearing Office. If the Director or Director's designee does not act within this time frame, the rehearing request shall be deemed denied.

(f)

The criteria for granting a rehearing shall be one or more of the following: (1) Newly discovered evidence is now available but was not available to the requesting party at the time of the hearing, and the new evidence, if it had been introduced, could have changed the result of the decision. (2) The adopted

decision is inconsistent with the law. (3) The adopted decision is not supported by the evidence of record.

(1)

Newly discovered evidence is now available but was not available to the requesting party at the time of the hearing, and the new evidence, if it had been introduced, could have changed the result of the decision.

(2)

The adopted decision is inconsistent with the law.

(3)

The adopted decision is not supported by the evidence of record.

(g)

If a rehearing request is granted, the Director or Director's designee shall do one of the following: (1) Order reconsideration of one, several, or all issues decided in the adopted decision on the basis of the evidence in the record, and any additional evidence submitted by the complainant or the local child support agency. Such additional evidence shall be submitted to the opposing party for rebuttal. (2) Order a new oral hearing on one or more of the issues presented at the original state hearing.

(1)

Order reconsideration of one, several, or all issues decided in the adopted decision on the basis of the evidence in the record, and any additional evidence submitted by the complainant or the local child support agency. Such additional evidence shall be submitted to the opposing party for rebuttal.

(2)

Order a new oral hearing on one or more of the issues presented at the original state hearing.

(h)

If a rehearing request is denied, the Director or Director's designee shall mail a written notice of denial to the complainant no later than 20 business days after the rehearing request is received by the State Hearing Office. The notice of denial shall contain a statement concerning the complainant's right to judicial review and shall advise the complainant that, if the court decides the case in the complainant's favor, the complainant shall be entitled to reasonable attorney's fees and the cost of the suit.

(i)

A rehearing request shall be permitted to be withdrawn by the requesting party any time.

(j)

A rehearing decision shall not be subject to another rehearing. Any further appeal must be by petition to the Superior Court under Section 1094.5 of the Code of Civil Procedure.