

120222 Authorized Representative

(a)

The complainant shall have the right to appoint an authorized representative during all aspects of the hearing process by signing and dating a written statement to that effect, or by stating on the record at the hearing that the person is so authorized. (1) If the complainant is not present at the hearing, the written statement authorizing a representative to act on behalf of the complainant for hearing purposes shall be signed and dated by the complainant on or after the date of the action or inaction with which the complainant is dissatisfied. (2) The authorization may be limited in scope or duration by the complainant, and may be revoked by the complainant at any time. The authorization shall be presumed to be a valid authorization. Such presumption is rebuttable. (3) If the complainant is not present at the hearing and the written authorization does not meet the requirements set forth in subsection (a), the Administrative Law Judge may proceed with the hearing if the circumstances indicate that the complainant wishes to proceed with the hearing process. In such cases, an amended authorization shall be submitted within five (5) days from the hearing.

(1)

If the complainant is not present at the hearing, the written statement authorizing a representative to act on behalf of the complainant for hearing purposes shall be signed and dated by the complainant on or after the date of the action or inaction with which

the complainant is dissatisfied.

(2)

The authorization may be limited in scope or duration by the complainant, and may be revoked by the complainant at any time. The authorization shall be presumed to be a valid authorization. Such presumption is rebuttable.

(3)

If the complainant is not present at the hearing and the written authorization does not meet the requirements set forth in subsection (a), the Administrative Law Judge may proceed with the hearing if the circumstances indicate that the complainant wishes to proceed with the hearing process. In such cases, an amended authorization shall be submitted within five (5) days from the hearing.

(b)

If the complainant has not authorized the representative in writing and is not present at the hearing, the person may be recognized as the authorized representative if the person is the complainant's attorney, guardian or conservator, or has a power of attorney, or if at the hearing, the person swears or affirms under penalty of perjury on the record that the complainant has so authorized him/her to act as the complainant's authorized representative, and the Administrative Law Judge further determines the person is so authorized.

(c)

The Administrative Law Judge may make the determination of a representative being authorized by the complainant by contacting the complainant or collateral source. When the purported authorized representative is not an attorney, a guardian or conservator, or does not have a power of attorney, a written authorization shall be submitted within five (5) days from the hearing unless this time period is extended by the Administrative Law Judge. If no written

authorization is submitted, the case shall be considered abandoned, and shall be dismissed by written decision after the hearing pursuant to Section 120211.

(d)

Whenever the complainant is represented by an authorized representative, the authorized representative shall be furnished a copy of all notices and decisions concerning the state hearing that are provided to the complainant. The authorized representative shall have the same right as the complainant to review the complainant's case record pursuant to Chapter 1, Program Administration, Article 5, Records Management.

(e)

All references in this Article to rights and responsibilities of a complainant in the state hearing process apply to a duly authorized representative, unless the authorization is limited pursuant to subsection (a)(2).