

120201 Right to a State Hearing

(a)

A complainant who is dissatisfied with the resolution of a complaint made with a local child support agency, pursuant to Article 2, shall have the right to request a state hearing pursuant to the requirements of this Article. The subject of the request for a state hearing shall be limited to any one or more of the following actions or inactions by a local child support agency or the Department: (1) An application for child support services has been denied or has not been acted upon within the required time frame. (2) The child support services case has been acted upon in violation of federal or state law, regulation, or Department policy letter, or has not been acted upon within the required time frame, including services for the establishment, modification, and enforcement of child support orders and child support accountings. (3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the local child support agency, is inaccurate. (A) State hearing jurisdiction shall not extend to arrears issues if there is no dispute as to the accounting of the amount owed, but the complainant is seeking relief from enforcement of the order or judgment, or if the complainant is seeking credit for payments that were made to someone other than the Department's State Disbursement Unit or the local child support agency. (B) The complainant shall not be entitled to request a state hearing and a court review at

the same time. If the complainant or the other party files for a court determination of arrears either before or after a state hearing is requested, the local child support agency shall notify the State Hearing Office, and any state hearing that has been requested on the same issues shall be dismissed. (C) The local child support agency shall not be required to give notice to the non-complaining party of a state hearing request that concerns the calculation of the arrears. However, in order to protect the property rights of the parties, the local child support agency shall send the non-complaining party a copy of any hearing decision, in which the calculation of arrears is at issue, and provide notice of the right to have the arrears issue heard in court. The local child support agency shall redact all confidential information, including the complaining party's address, prior to sending the hearing decision to the non-complaining party. (4) The local child support agency's decision to close a child support case.

(1)

An application for child support services has been denied or has not been acted upon within the required time frame.

(2)

The child support services case has been acted upon in violation of federal or state law, regulation, or Department policy letter, or has not been acted upon within the required time frame, including services for the establishment, modification, and enforcement of child support orders and child support accountings.

(3)

Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the local child support agency, is inaccurate. (A) State hearing jurisdiction shall not extend to arrears issues if there is no dispute as to the accounting of the amount owed, but the

complainant is seeking relief from enforcement of the order or judgment, or if the complainant is seeking credit for payments that were made to someone other than the Department's State Disbursement Unit or the local child support agency. (B) The complainant shall not be entitled to request a state hearing and a court review at the same time. If the complainant or the other party files for a court determination of arrears either before or after a state hearing is requested, the local child support agency shall notify the State Hearing Office, and any state hearing that has been requested on the same issues shall be dismissed. (C) The local child support agency shall not be required to give notice to the non-complaining party of a state hearing request that concerns the calculation of the arrears. However, in order to protect the property rights of the parties, the local child support agency shall send the non-complaining party a copy of any hearing decision, in which the calculation of arrears is at issue, and provide notice of the right to have the arrears issue heard in court. The local child support agency shall redact all confidential information, including the complaining party's address, prior to sending the hearing decision to the non-complaining party.

(A)

State hearing jurisdiction shall not extend to arrears issues if there is no dispute as to the accounting of the amount owed, but the complainant is seeking relief from enforcement of the order or judgment, or if the complainant is seeking credit for payments that were made to someone other than the Department's State Disbursement Unit or the local child support agency.

(B)

The complainant shall not be entitled to request a state hearing and a court review at the same time. If the complainant or the other party files for a court determination of arrears either before or after a state hearing is requested, the local child support agency shall notify

the State Hearing Office, and any state hearing that has been requested on the same issues shall be dismissed.

(C)

The local child support agency shall not be required to give notice to the non-complaining party of a state hearing request that concerns the calculation of the arrears. However, in order to protect the property rights of the parties, the local child support agency shall send the non-complaining party a copy of any hearing decision, in which the calculation of arrears is at issue, and provide notice of the right to have the arrears issue heard in court. The local child support agency shall redact all confidential information, including the complaining party's address, prior to sending the hearing decision to the non-complaining party.

(4)

The local child support agency's decision to close a child support case.

(b)

The following issues shall not be heard at a state hearing: (1) Complaints arising from a child support matter which must, by law, be addressed by motion, order to show cause, or appeal, in a court. (2) A review of any of the following: (A) A court order for child support or child support arrears. (B) A court order or equivalent determination of paternity. (C) A court order for spousal support. (3) Child custody determinations. (4) Child visitation determinations. (5) Complaints of alleged discourteous treatment by a local child support agency employee unless such conduct resulted in one of the actions or inactions enumerated in subsection (a)(1) through (4).

(1)

Complaints arising from a child support matter which must, by law, be addressed by motion, order to show cause, or appeal, in a court.

(2)

A review of any of the following: (A) A court order for child support or child support arrears. (B) A court order or equivalent determination of paternity. (C) A court order for spousal support.

(A)

A court order for child support or child support arrears.

(B)

A court order or equivalent determination of paternity.

(C)

A court order for spousal support.

(3)

Child custody determinations.

(4)

Child visitation determinations.

(5)

Complaints of alleged discourteous treatment by a local child support agency employee unless such conduct resulted in one of the actions or inactions enumerated in subsection (a)(1) through (4).

(c)

Prior to requesting a hearing, the complainant shall exhaust the local complaint resolution process specified in Article 2, unless a local child support agency has not, within the time frames specified in Section 120105, submitted a written resolution of the complaint. Only a complaint that was raised in the local complaint resolution process can be raised in a state hearing.

(d)

All requests for a state hearing shall: (1) Be made orally or in writing to the State Hearing Office. Complainants shall be encouraged, but not be required, to

complete a "Request for State Hearing," SH001, dated (06/09), incorporated by reference herein. (2) Be made within 90 days after any of the following: (A) The date the complainant received the local child support agency's "Notice of Complaint Resolution," LCR006, dated (10/01). There shall be a rebuttable presumption that the complainant received a "Notice of Complaint Resolution," LCR006, dated (10/01), five business days after the postmark date of the LCR006. (B) The date the complainant made the complaint with the local child support agency, if the local child support agency failed to issue a "Notice of Complaint Resolution," LCR006, dated (10/01). (C) The date the complainant received the "Complaint Transfer," LCR004, dated (10/01), from the local child support agency that transferred the complaint pursuant to Section 120104, if the local child support agency to which the complaint was transferred has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01) within the time frame specified in Section 120105. (D) The date the complainant received the "Notice of Complaint Resolution Extension," LCR005, dated (10/01), from the local child support agency that took an extension pursuant to Section 120105, if the local child support agency has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01), within 60 days from the complaint receipt date. (3) Include, at a minimum, the information specified in Section 120101(b)(3). A request for a state hearing shall not be deemed invalid for failure to include the information specified in Section 120101(b)(3)(B).

(1)

Be made orally or in writing to the State Hearing Office. Complainants shall be encouraged, but not be required, to complete a "Request for State Hearing," SH001, dated (06/09), incorporated by reference herein.

(2)

Be made within 90 days after any of the following: (A) The date the complainant received the local child support agency's "Notice of Complaint Resolution," LCR006, dated (10/01). There shall be a rebuttable presumption that the complainant received a "Notice of Complaint Resolution," LCR006, dated (10/01), five business days after the postmark date of the LCR006. (B) The date the complainant made the complaint with the local child support agency, if the local child support agency failed to issue a "Notice of Complaint Resolution," LCR006, dated (10/01). (C) The date the complainant received the "Complaint Transfer," LCR004, dated (10/01), from the local child support agency that transferred the complaint pursuant to Section 120104, if the local child support agency to which the complaint was transferred has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01) within the time frame specified in Section 120105. (D) The date the complainant received the "Notice of Complaint Resolution Extension," LCR005, dated (10/01), from the local child support agency that took an extension pursuant to Section 120105, if the local child support agency has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01), within 60 days from the complaint receipt date.

(A)

The date the complainant received the local child support agency's "Notice of Complaint Resolution," LCR006, dated (10/01). There shall be a rebuttable presumption that the complainant received a "Notice of Complaint Resolution," LCR006, dated (10/01), five business days after the postmark date of the LCR006.

(B)

The date the complainant made the complaint with the local child support agency, if the local child support agency failed to issue a "Notice of Complaint Resolution," LCR006, dated (10/01).

(C)

The date the complainant received the "Complaint Transfer," LCR004, dated (10/01), from the local child support agency that transferred the complaint pursuant to Section 120104, if the local child support agency to which the complaint was transferred has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01) within the time frame specified in Section 120105.

(D)

The date the complainant received the "Notice of Complaint Resolution Extension," LCR005, dated (10/01), from the local child support agency that took an extension pursuant to Section 120105, if the local child support agency has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01), within 60 days from the complaint receipt date.

(3)

Include, at a minimum, the information specified in Section 120101(b)(3). A request for a state hearing shall not be deemed invalid for failure to include the information specified in Section 120101(b)(3)(B).

(e)

If a local child support agency receives a "Request for State Hearing," SH001, dated (06/09), directly from a complainant, the local child support agency shall transmit by electronic means the SH001 to the State Hearing Office by the close of business of the following business day.