



## Ohio Administrative Code Rule 5160-80-02 Hearing Requests.

Effective: June 13, 2016

---

### (A) Making a request for hearing

(1) A request for hearing must be submitted to the depository agent in writing by the medical assistance recipient or by the medical assistance recipients authorized representative or attorney and shall be subject to the requirements of this rule.

(2) The request for hearing shall address only the issue of whether the amount determined for reimbursement of medical assistance paid by the department or county department should be different than set forth in section 5160.37 of the Revised Code. The hearing examiner shall freely grant leave to a medical assistance recipient or to a medical assistance recipients authorized representative or attorney to amend the written hearing request if it fails to comply with this requirement.

(3) For a payment owed to the department or county department on or after September 29, 2015, the following shall apply:

(a) Before a medical assistance recipient can make a hearing request, the medical assistance recipient must receive from the department or county department a letter with a final lien amount.

(b) If the medical assistance recipient is requesting a hearing pursuant to division (L)(1) or (L)(2) of section 5160.37 of the Revised Code, the medical assistance recipient must provide the following information with the hearing request, subject to documentation verification upon demand of the department:

(i) The total amount to be paid to resolve all claims of the medical assistance recipient, including, but not limited to, medical expenses, loss of income, loss of consortium, and pain and suffering.

(ii) The amount that has been collected as a result of the settlement, compromise, judgment, or



award giving rise to the departments or county departments claim for reimbursement.

(iii) The amount of attorney fees incurred to obtain the settlement, compromise, judgment, or award.

(iv) The amount of costs and expenses incurred to obtain the settlement, compromise, judgment, or award.

(c) In addition to the information requested pursuant to paragraph (A)(3)(b) of this rule, the medical assistance recipient requesting a hearing pursuant to division (L)(1) or (L)(2) of section 5160.37 of the Revised Code shall provide with the hearing request the following documentation:

(i) A copy of all written settlement agreements, compromises, judgments, or awards referenced in paragraph (A)(3)(b) of this rule.

(ii) If the medical assistance recipient does not pay to the department or county department the final lien amount, documentation from a bank or other financial institution providing the account number and the amount being held in an escrow account or an attestation from an attorney identifying the amount being held in an interest on lawyers trust account pursuant to division (L)(1) of section 5160.37 of the Revised Code.

(d) If the medical assistance recipient does not include all of the information and documentation required in paragraphs (A)(3)(b) and (A)(3)(c) of this rule, the department shall send written notice to the medical assistance recipient and the medical assistance recipients attorney or authorized representative listing the information and documentation not provided. If the medical assistance recipient or the medical assistance recipients attorney or authorized representative fails to provide all the requested information and documentation within thirty calendar days of the date of mailing of the written notification, the department shall dismiss the hearing request without prejudice.

(4) Written documentation of the appointment of an authorization representative by a medical assistance recipient must accompany the hearing request made on the medical assistance recipients behalf by an authorized representative. Attorneys may make a written hearing request on a medical assistance recipients behalf without providing written authorization. To obtain medical assistance



information or protected health information, an attorney representing the medical assistance recipient must provide a written release meeting the requirements of section 5160.45 of the Revised Code or written documentation that the attorney is acting in the capacity as an authorized representative.

(B) Time limit

(1) For payments owed to the department or county department on or after September 29, 2015, written notification by the department or county department to the medical assistance recipient of the final lien amount shall include a notice of the recipients right to request a hearing.

(2) If a medical assistance recipient does not elect to escrow or have placed in a lawyers trust account the final lien amount, a request for hearing must be made not later than ninety calendar days after payment of the final lien amount to the department or county department. When counting the days to determine whether an appeal is timely, the date on which notice was mailed, sent by electronic means, or otherwise provided is not counted. If the last day of the time period falls on a Saturday, Sunday, or state or federal legal holiday, the time period is extended to include the next workday.

(C) Determining whether a hearing request is timely made.

(1) If a request for hearing is made to the depository agent, the request is deemed to have been made as follows:

(a) If the request is mailed by certified mail, as of the date stamped by the U.S. postal service on its receipt form (PS form 3800 or any future equivalent postal service form).

(b) If the request is mailed by ordinary U.S. mail, as of the date of the postmark appearing upon the envelope containing the request.

(c) If the request is mailed by ordinary U.S. mail and the postmark is illegible or fails to appear on the envelope, as of the date of its receipt by the depository agent as evidence by the agents time stamp.

(2) If a request is made through the website designated by the department for making a hearing



request, the request is deemed to have been made when the request is electronically recorded by the website.

(3) If a request for a hearing is made by facsimile transmission or by electronic mail to the depository agent, the request is deemed to have been made as of the date of its receipt as evidence by the receipt date generated by the facsimile transmission or the date of receipt shown in the source code of the electronic mail received by the depository agent.

(4) If a request for a hearing is personally delivered to the depository agent, the request is deemed to have been made as of the date of its receipt by the depository agents time stamp.

(5) If a request for a hearing is mailed, personally delivered, made by facsimile transmission, or made by electronic mail to a person or address other than the depository agent or otherwise not properly sent, the request is deemed to have been made as of the date of its receipt by the depository agent as evidence by the depository agents time stamp.

(6) The hearing request shall clearly identify the medical recipient making the request by name, address and phone number. If a request is made through a website designated by the department for making a hearing request, the request shall provide the information required by the website to identify the medical assistance recipient.