



## Ohio Administrative Code Rule 5160-80-05 Scheduling and attendance.

Effective: June 13, 2016

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### (A) Time and place of the hearing

(1) All hearings shall be conducted in Columbus, Ohio, during normal business hours unless other times are authorized by the hearing examiner. The appellant and department or county department may elect to participate in the hearing via video conference with the hearing examiners consent. No telephone hearings shall be allowed.

(2) Upon the written request of an appellant, the director may designate the site of the hearing to be the county seat of the county wherein the appellant resides or, alternately, a place within fifty miles of the appellants residence. The approval of an alternative location is at the directors discretion. Requests for an alternative hearing site must be filed by the appellant with the depository agent at least forty-five calendar days before the hearing date, with service as required by rule 5160-80-06 of the Administrative Code.

(B) The hearing examiner shall issue a scheduling notice providing the time, date, and place of the hearing to the appellant and to the appellants authorized representative or attorney and to the department or county department.

(1) A copy of the scheduling notice shall be retained and included in the hearing record.

(2) The scheduling notice shall be issued at least sixty calendar days prior to the date of the hearing, unless the appellant or appellants attorney or authorized representative requests an expedited hearing. Expedited hearings may be granted at the discretion of the hearing examiner.

(3) The scheduling notice shall:

(a) Provide the name, address and telephone number of the person to notify if a party or partys authorized representative or attorney cannot attend the hearing.



(b) Explain that the hearing request will be dismissed with prejudice if the appellant or the appellants authorized representative or attorney fails, without good cause, to appear for the hearing.

(c) Contain a general explanation of hearing procedures and provide other information necessary for the appellants understanding of the proceedings. The explanation of hearing procedures will set forth deadlines, including the deadlines for disclosure of information as identified in paragraph (D) of this rule.

(C) Attendance

Attendance at the hearing is limited to the following:

(1) The department or county department representative.

(2) The appellant and authorized representative.

(3) Legal representation for the parties. The attorney general, or assistant attorney general or special counsel designated by the attorney general, shall represent the department.

(4) Witnesses called by the appellant and by the department or county department to present relevant testimony, subject to the right of any party to move for separation of witnesses.

(5) Other persons, only if their attendance as determined by the hearing examiner does not interfere with the orderly conduct of the hearing.

(D) Pre-hearing discovery is not allowed. The department or county department shall provide the appellant and the appellants authorized representative or attorney no later than thirty calendar days following the issuance of the scheduling notice with copies of any relevant, non-privileged records it has concerning the appellants medical billing, correspondence, and payment history. The appellant or the appellants authorized representative or attorney shall provide counsel for the department or county department no later than thirty calendar days after issuance of the scheduling notice with the names and addresses of any third party and the attorney for the third party. When the third party is



an insurance company, the appellant or the appellants authorized representative or attorney shall also provide the names and addresses of the beneficiaries of the issuance policy. Upon a showing of good cause, or upon the hearing examiners own initiative, this thirty day period may be increased or decreased.

(E) Subpoenas

(1) The depository agent shall issue blank subpoena forms to a party requesting a subpoena for the purpose of compelling at the hearing testimony or the production of documents. The party is responsible for completing the subpoena form, including the address where the person is to be served, and returning the completed subpoena form to the depository agent along with a written request for service and a check for witness fees and mileage made payable to the witness. The written request for service and the completed subpoena, along with a check for witness fees and mileage, must be received by the department no later than thirty calendar days before the commencement of the hearing, unless otherwise ordered by the hearing examiner for good cause shown. At its discretion, the department may make available an electronic version of the subpoena and may authorize electronic submission of a completed subpoena. A party requesting issuance of a subpoena shall serve a copy of the subpoena upon the opposing party. A party objecting to the issuance of a subpoena may file a motion to quash setting forth in specific detail the bases for the objection.

(2) For hearings, upon its own initiation or that of any party in the hearing, the department shall issue a subpoena to any person within the state requiring the persons attendance as a witness and/or the production of books, records or papers at the hearing. A subpoena may be served by a sheriff, bailiff, coroner, clerk of court, constable, or a deputy of any of the foregoing, by an attorney at law, or by any other person designated by order of the department who is not a party and is not less than eighteen years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy of the subpoena to the person, by reading it to him or her in person, by leaving it at the persons usual place of residence, or by placing a sealed envelope containing the subpoena in the United States mail as certified or express mail return receipt requested with instructions to the delivering postal authority to show to whom delivered, date of delivery and address where delivered. Witness fees and mileage fees shall be tendered without demand upon residents living outside the county in which the hearing is being held on the day of their testimony, and upon demand on



residents living inside the county in which the hearing is being held on the day of their testimony.

(3) In any case of disobedience or neglect of any subpoena served upon any person, or the refusal of any witness to testify to any matter in which there may be lawful interrogation, the department shall apply to the court of common pleas where such disobedience, neglect, or refusal occurs for an order to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.