



Ohio Administrative Code

Rule 5160-80-09 Administrative appeal of the hearing decision.

Effective: June 13, 2016

(A) An appellant who disagrees with a hearing decision has the right to request an administrative appeal from the director.

(B) Notice of the right to and the method of obtaining an administrative appeal shall be included in all hearing denial notices, hearing dismissal notices, and hearing decisions.

(C) Administrative appeal requests

(1) A request for an administrative appeal must be in writing and signed by the appellant or the appellants authorized representative or attorney.

(2) Written documentation of the appointment of an authorization representative must accompany the appeal request made on an appellants behalf by the appellants authorized representative, unless the representative was the authorized representative of record at the hearing stage, or the request is made by the appellants attorney.

(3) The request must be received by the depository agent within fifteen calendar days from the date the hearing decision being appealed was mailed.

(D) Denial of administrative appeal

(1) An administrative appeal request may be denied for any of the following reasons:

(a) It is not made by the appellants or by the appellants authorized representative or attorney, as required by paragraph (C)(2) of this rule.

(b) It is not timely, as defined by paragraph (C)(3) of this rule.



(2) The department shall file written notice of the denial with the depository agent. The depository agent within five business days of filing of the denial shall mail copies of the denial by regular U.S. mail to the appellant and to the appellants authorized representative or attorney and to counsel for the department or county department.

(E) Review by the director of the administrative appeal.

A hearing decision will be reviewed by the director for one or more of the following reasons:

(1) The decision is contrary to the weight of the evidence presented.

(2) A prejudicial error was committed in the course of the proceedings.

(3) The decision relies on an incorrect application of law or rule.

(F) Administrative appeal decisions

(1) The director shall review the appeal request and the hearing record. The director shall issue an administrative appeal decision which addresses the issues of fact and law raised in the appeal request. The director shall adopt the hearing decision when it contains a correct application of law and is supported by the record. The director shall amend the findings of facts or conclusions of law of the hearing decision that contain any errors or do not correctly apply the appropriate laws, rules or burden of proof, and clearly explain the reason and basis for any such amendment. The director may reverse the hearing decision and remand the case to the hearing examiner for additional action if the appellant met the requisite burden of proof or there was a procedural or other type of error that resulted in an unfair or prejudicial process for the appellant. The director also may remand the matter to the hearing examiner for additional testimony or to permit the introduction of further documentary evidence. The director may reverse, decrease, or increase any monetary finding made for the appellant if there is a basis in either law or the record for this action.

(2) The director shall file with the depository agent the directors administrative appeal decision, which shall include notice of right to file an appeal with the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code. Within five business days of the



filing, the depository agent shall mail a copy of the administrative appeal decision to the appellant and to the appellants attorney or authorized representative and to counsel for the department or county department.

(G) Administrative appeal record

The administrative appeal record shall consist of the hearing record, appeal request, and the administrative appeal decision, together with all requests, documents, and correspondence filed in the administrative appeal proceeding. The administrative appeal record shall be compiled and maintained by the department in accordance with departments record retention schedules and made available for review by the parties or the parties authorize representative or attorney upon request.

(H) Finality

(1) An administrative appeal decision that affirms, reverses, or modifies the hearing decision being appealed is final and binding upon the parties, has res judicata effect, and is only subject to appeal through the process set forth in section 119.12 of the Revised Code.

(2) An administrative appeal decision that vacates the original decision and remands the case does not constitute a final administrative resolution.