

Office of Administrative Hearings (OAH) Procedures Transmittal		Transmittal Number: 11-02
Distribution:		Date: June 7, 2011
		Page: 1 of 2 plus Attach.
ALB OAH Staff <input checked="" type="checkbox"/>	UPS ALJs <input checked="" type="checkbox"/>	Upstate LDSS <input checked="" type="checkbox"/>
	SUP ALJs <input checked="" type="checkbox"/>	
NYC OAH Staff <input checked="" type="checkbox"/>	NYC ALJs <input checked="" type="checkbox"/>	NYC Agencies <input checked="" type="checkbox"/>
	SUP ALJs <input checked="" type="checkbox"/>	
		Subject: Upstate Medicaid Recertification Waiver of Appearance Instructions for Maximus Enrollment Center (ENR)

Effective June 13, 2011 the Albany-based **Maximus Enrollment Center (ENR)**, doing business as New York Health Options, will assume responsibility for administering the recertification process for most Upstate Medicaid cases. Initial eligibility determinations will continue to be administered by the local social services districts. The Office of Administrative Hearings has responsibility for scheduling and holding fair hearings on all Medicaid recertification issues administered by the Maximus Enrollment Center. This agency will appear in the second Agency field on the Fair Hearing Information System as ENR.

Pursuant to 18 NYCRR 358-4.3(c) (1), the Maximus Enrollment Center can request a waiver of personal appearance and submit to this office, prior to the hearing date, a waiver request and evidentiary packet. Waiver requests will be reviewed and granted on a case-by-case basis. At this time, "blanket" waivers of appearance will not be granted; however, if the Maximus Enrollment Center does not receive a telephone call from this office prior to the hearing date indicating otherwise, it will be presumed that a waiver has been granted.

It should be noted that even in situations where a waiver of appearance has been granted, the Administrative Law Judge may require the testimony of a Maximus Enrollment Center representative at the time of the hearing. It will, therefore, be necessary that a primary contact person be available (and a back-up contact be designated to be available) during the course of the hearing to accept a telephone call from the Administrative Law Judge. The primary and back-up contact persons' name and telephone number should be included on the request for waiver. The waiver request should also contain the fair hearing number, and a summary of the specific facts relevant to the issue under review at the hearing. A proposed format for requesting a waiver of appearance is attached as an example.

For proper inclusion in the fair hearing record, the waiver request and evidentiary packet should be submitted immediately upon notification of the hearing request, as follows:

For all requests, two copies of the waiver request and summary must be mailed to the Albany Central Office address listed below. It is essential that the packets are received in the Albany Central Office to allow sufficient time for forwarding to the hearing site; namely, within **ten calendar** days of receipt of the electronic notification (OTDA-1891). If packets are not received within this timeframe, there is no guarantee that they will be available at the hearing.

Mail via regular mail to:

Maximus Enrollment Center Waiver Processing
Office of Administrative Hearings
NYS Office of Temporary and Disability Assistance (OTDA)
P.O. Box 1930
Albany, New York 12201-1930

-or-

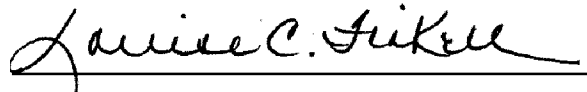
Mail via Express Mail to:

Maximus Enrollment Center Waiver Processing
Office of Administrative Hearings
NYS Office of Temporary and Disability Assistance (OTDA)
1 Commerce Plaza, 12th Floor, Room 1209
Albany, New York 12260

Please include on the waiver request the name of the appellant, the fair hearing number, and the number of pages contained in each evidence package to assist in matching the submission to the appropriate fair hearing file. Please ensure that your evidence packet is consecutively numbered and is complete.

Please note, it is the responsibility of the Maximus Enrollment Center to provide a copy of the waiver request and evidentiary packet to the appellant and/or representative, in addition to that required above, if requested. **When the hearing is scheduled as a telephone hearing, since the appellant will not appear, it is essential that the Maximus Enrollment Center mail the appellant and/or representative a copy of the evidence packet prior to the hearing even when not requested by the client.** Also, if the Maximus Enrollment Center's representative appears in person, it is essential that two copies of the evidence packet are brought to the hearing, one for the Administrative Law Judge and one for the client.

If you have any questions regarding this transmittal, please contact Susan Fiehl at (518) 473-4779 or via e-mail at susan.fiehl@otda.state.ny.us.



Louise Finkell, Director of Administration
Office of Administrative Hearings

SAMPLE WAIVER REQUEST

Maximus Enrollment Center Waiver Processing
Office of Administrative Hearings
NYS Office of Temporary & Disability Assistance
P.O. Box 1930
Albany, New York 12201-1930

Appellant's Name _____
Fair Hearing Number: _____

To Whom It May Concern:

This information is submitted with respect to the above-mentioned fair hearing and is submitted in lieu of appearance at the hearing. A personal appearance is not necessary because _____

_____.

In accordance with the requirements contained in 18 NYCRR 358-4.3(c) (1), please consider this as this agency's request to present evidence in the form of written documentation in lieu of appearing at the hearing. Should the content of this document raise issues requiring further elaboration or cross-examination during the course of the hearing, please contact:

_____ (name) at _____ (telephone number)

-or-

_____ (name) at _____ (telephone number).

The following should be noted for the record:

(In this section, summarize the Maximus Enrollment Center's position relative to the issue under review at the hearing. Attach all appropriate documentation and submit within the timeframe required for information to be available on the scheduled date of the hearing.)

These facts, as presented, should be of assistance in your review of this case.

Sincerely,