

Office of Administrative Hearings (OAH) Procedures Transmittal		Transmittal 18-07
Distribution:		Date: June 4, 2018
Albany OAH Staff <input checked="" type="checkbox"/>	Rest of State Hearing Officers <input checked="" type="checkbox"/>	Subject: Hearing Request Procedures for Members of the <u>Fishman</u> Retroactive Class
	Supervising Hearing Officers <input checked="" type="checkbox"/>	
NYC OAH Staff <input checked="" type="checkbox"/>	NYC Hearing Officers <input checked="" type="checkbox"/>	
	Supervising Hearing Officers <input checked="" type="checkbox"/>	
Rest of State Social Service Districts <input checked="" type="checkbox"/>		
NYC Agencies <input checked="" type="checkbox"/>		

This Transmittal establishes the handling procedures for hearings and hearing requests involving members of the Fishman retroactive class and their authorized representatives, comprised of all Medicaid appellants who should have, but did not receive a Fishman Default Letter (Letter 18) during the period of January 1, 2012 through March 28, 2017.

The Office of Administrative Hearings (OAH) will mail a letter dated June 5, 2018 (“Retroactive Letter”) to the 76,019 appellants and 6,445 authorized representatives described above, advising them to contact OAH within ten (10) calendar days of the postmark if they wish to reopen the fair hearing on Medicaid issues only. When the Retroactive Letters are sent, the Comment field on the Fair Hearing Information Screen (FHIS) for each hearing will be updated to include the following language: “**FISHMAN RETROACTIVE LETTER SENT 06/05/2018.**” Each Retroactive Letter will contain an “R” located near the bottom right-hand corner to assist appellants and staff in identifying the document.

If an appellant or authorized representative requests rescheduling within ten (10) calendar days of the Retroactive Letter’s postmark, Legal Specialties Unit staff (LSU) shall reopen the hearing in FHIS by entering “REOP 76” in the Disposition/Reason field. Reopen Code 76 has been created solely for this purpose.

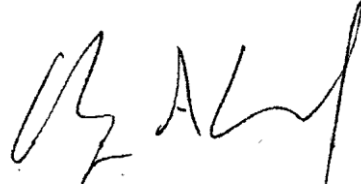
If an appellant or authorized representative requests rescheduling after ten (10) calendar days of the Retroactive Letter’s postmark, LSU shall deny reopening by entering “RPDN 67” in the Disposition/Reason field. LSU shall then set up a new hearing for the appellant.

Under no circumstances shall Aid to Continue be granted or restored prior to the completion of a hearing.

At the new or reopened hearing, the explanation for the failure to appear on the prior hearing date will be addressed by the Hearing Officer. If the request to reopen the prior hearing had been made within ten calendar days of Retroactive Letter’s postmark, the Hearing Officer shall treat the Medicaid issue(s) consistent with hearing requests that have been reopened pursuant to NYCRR § 358-5.5 (a). Otherwise, the Hearing Officer shall treat the issues (all non-Medicaid

issues, and all Medicaid issues included in a hearing that was denied reopening) consistent with reopening requests that have been denied pursuant to 18 NYCRR § 358-5.5 (d).

If you have any questions regarding this Transmittal, you may contact your supervisor or Frank Seminerio at (518) 474-9777 or Frank.Seminario@otda.ny.gov.

A handwritten signature in black ink, appearing to read "Roy A. Esnard". The signature is stylized and cursive.

Roy A. Esnard, Deputy Commissioner
Office of Administrative Hearings