



State of New Jersey

DEPARTMENT OF INSTITUTIONS AND AGENCIES

TRENTON 7

Thompson

June 1, 1955.

Mr. Robert J. Burkhardt
Secretary to the Governor
State House
Trenton, New Jersey

Dear Mr. Burkhardt:

I am enclosing herewith the Rules and Regulations of the Division of Welfare, the Division of Correction and Parole, and the State Parole Board, which in accordance with Paragraph 6, Section 4, Article 5 of the Constitution of New Jersey, are to be filed in the Office of the Secretary of State.

The Rules and Regulations of the Division of Mental Hygiene and Hospitals will be forwarded you within the next few days.

Sincerely yours,

F. Lovell Bixby

F. Lovell Bixby, Ph.D
Acting Commissioner

FLB:5

Enc.

DEPARTMENT OF INSTITUTIONS AND AGENCIES
DIVISION OF WELFARE

ISSUED: June 17, 1948
July 24, 1951

TITLE : Statement of Policy and Procedures on Appeals and Fair Hearings.

SUBJECT: Fair Hearings

STATUTORY REFERENCE: R.S. 14:7-18, 30:5-43 and 30:6-3

These regulations are issued pursuant to formal resolution of the Board of Control adopted June 17, 1948 and July 24, 1951.

Elmer V. Andrews
Director of Welfare

Approved:

by _____
President,
State Board of Control

DEPARTMENT INSTITUTIONS AND AGENCIES

DIVISION OF WELFARE

FAIR HEARING RULES & REGULATIONS

State of New Jersey
Department of Institutions and Agencies

6/4/48

STATEMENT OF POLICY AND PROCEDURES ON
APPEALS AND FAIR HEARINGS

(Adopted by the State Board of Control on June 17, 1948)

Statement of Law.

Federal Law.--Requirements of the Social Security Act include the following:

Old Age Assistance.--Title I, section 2(a) (4) reads:

"A State plan for old age assistance must.....provide for granting to any individual, whose claim for old age assistance is denied, an opportunity for a fair hearing before such State agency....."

Aid to Dependent Children.--Title IV, section 402(a) (4) reads:

"A State plan to aid to dependent children must.....provide for granting ~~for~~ any individual, whose claim with respect to aid to a dependent child is denied, an opportunity for a fair hearing before such state agency....."

Aid to the Blind.--Title X, section 1002(a) (4) reads:

"A State plan for aid to the blind.....must provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency....."

State Law.--Provisions of the New Jersey Statutes include the following:

Old Age Assistance.--Title 44, Section 7-18 provides:

".....where an application is not acted upon, by the county welfare board within thirty days after the filing of the application, or the application is denied, or the grant is deemed inadequate, either by the State division or by the applicant, the State division may review the case in its discretion or the applicant may appeal to the State division by filing a petition with the division setting forth the facts in full as to the necessity for such assistance. Whereupon a representative of the State division shall hold a fair hearing on the appeal, and if the appeal is sustained by the State division the payments of assistance in the amount determined by the State division must be paid by said county welfare board as herein provided."

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Home Life Assistance.--Title 30, section 5-43 provides:

"if a petition for assistance is not acted upon by the county welfare board within a reasonable time, or if a petition for assistance is denied in whole or in part by the county welfare board, or if any order granting assistance is modified or cancelled by the county welfare board, pursuant to the provisions of this chapter, the petitioner or recipient may appeal to the State Department of Institutions and Agencies or its duly authorized representative, in the manner and form prescribed by such State Department; provided, however, that the prescribed procedure for such appeals shall give the petitioner or recipient reasonable notice thereof and an opportunity of fair hearing."

Aid to the Blind.--Title 30, section 6-3 provides:

"any applicant or recipient denied relief, aggrieved because of a welfare board decision or delay in making same or having other cause for appeal from the decision of the Commission or of the county welfare board, may appeal to the State Board or to its designated representative in the manner prescribed by the State Board, and shall be afforded reasonable notice and opportunity for a fair hearing by the State Board. All decisions of the State Board shall be final and shall be binding upon and shall be complied with by the county welfare board."

Interpretation.

Federal Interpretation.--The Social Security Administration has promulgated*the following general interpretation of the provisions of the Federal Act:

"Denial of a "claim for assistance" is interpreted to include denial of the opportunity to make application or reapplication for assistance, rejection of a request for assistance or undue delay in reaching a decision on it, and in making a payment, refusal to consider a request for or undue delay in making an adjustment of the amount of payment, and suspension or discontinuance of payment. Since an individual cannot avail himself of the opportunity for a hearing unless he is aware of its availability, and since the purpose of the hearing has not been served until the decision is carried out, the entire procedure from the initial notification to the individual regarding his right to a hearing, to the execution of the hearing decision, is included in the consideration of the hearing process. When an issue has been made the subject of a request for a hearing, authority and responsibility for the decision passes from the local office to the deciding authority in the State agency."

State Interpretation.--The Department of Institutions and Agencies recognizes and adopts the above interpretation of the Social Security Administration as to the extent to which the right of fair hearing should be available, and finds that the provisions of State law authorize the promulgation by the Department of rules, regulations and procedures sufficient to satisfy the requirements of the Federal Act and the cited interpretation thereof.

* Handbook of Public Assistance Administration, section 6200, 10/10/47.

Definitions.

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For purposes of this statement of policy and procedure, the following terms shall be understood as here defined:

- applicant - a person applying for old age assistance or aid to the blind for himself, or a mother or woman standing in place of a mother applying for aid to dependent children ("home life assistance") on behalf of a child or children and herself.
- recipient - a person receiving old age assistance, aid to the blind, or aid to dependent children ("home life assistance").
- client - a person who is, or is seeking the opportunity to become, an applicant or recipient, including: an applicant who is awaiting the agency's decision, a recipient whose assistance payment has been suspended or withheld, or a person still considering himself entitled to assistance although his application has been denied or withdrawn or his payment discontinued.
- complaint - any clear expression, oral or written, by any person, to the effect that he is dissatisfied with the action or lack of action on the part of the agency in the handling of any client, with the procedure applied in such handling, or with the decisions or results thereof.
- appeal - a complaint made by a client or his authorized representative, when such complaint is accompanied by a request for fair hearing.
- request for fair hearing - any clear expression (oral or written, by letter or otherwise) by a client or his authorized representative, to the effect that he wishes to go beyond the usual procedure for adjusting complaints, and that he wishes an opportunity to present his case to the ultimate State authority in the administrative organization; the specific wording of such a request is immaterial.
- fair hearing - an orderly, readily available proceeding before an impartial official of the Department, in which a dissatisfied client or his authorized representative may present his case with the help of witnesses to show why action or inaction in his case should be corrected by the Department.

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- local office - the office of the county welfare board with respect to Old Age Assistance or aid to the blind, or the district office of the State Board of Child Welfare with respect to home life assistance.
- State office - the office of the Division of Old Age Assistance, the Central Office of the State Board of Child Welfare, or the office of the Commission for the Blind, whichever is appropriate.

Right to Fair Hearing

It is declared to be the right of every client to request a fair hearing, and to be afforded the opportunity for such a hearing in the manner established in these regulations.

Notification of Right to Fair Hearing

A statement in simple language informing the applicant of his right of appeal and fair hearing, shall be included on or annexed to the official form of application for assistance and each applicant shall receive an authentic copy of his executed application form, with attachments if any, to be retained in his own possession. This procedure shall constitute the mandatory and effective method by which every client is informed in writing of his right to a fair hearing on any action or failure to act by the agency with respect to his situation.

Apart from the official notification of right of fair hearing thus appearing on or annexed to the application form, it is desired that every applicant should, at the time of first contact with the local office or agent thereof, receive a copy of the "Statement Concerning Fair Hearings".

A copy of the "Statement Concerning Fair Hearings" shall be furnished to any client at any time upon his request, and may be furnished to any client or any other person at any time.

Complaints and Adjustment Procedure

Complaints and other requests for review of action taken on applications and grants will not be considered appeals unless and until there is a request for a fair hearing. (see "Definitions").

Prompt and courteous attention will be given to all such complaints and requests for review, whether they are directed to the local office or to the State office. All complaints received by mail shall be acknowledged promptly, and suitable review and adjustment steps shall be promptly initiated. Oral complaints shall be incorporated in the case record and thereafter handled in the same manner as written complaints. Complaints received in the State office shall be referred to the local office for appropriate attention.

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Local efforts to effect an adjustment will be made through further field contacts, office interviews with the supervisor, consultation with the State office or Field Representative, affording the complainant an opportunity to appear before the Welfare Board, etc.

After all steps have been taken for local adjustment, the client (and the complainant, if other than the client) shall be notified of the decision made as to the complaint. If the client is still dissatisfied with the decision, he shall be advised again of the right to appeal and request a fair hearing and how he may so proceed.

Procedure for Initiating Fair Hearings

An appeal making request for a fair hearing should be in writing and should be addressed to the State office or to the Department. However, appeals clearly making requests for fair hearing when expressed orally shall be reduced to a written record, and such appeals addressed to the local office shall be promptly transmitted to the State office, which will in turn direct them to the attention of the Deputy Commissioner for Welfare.

No special form of statement or manner of expression is required as long as it sets forth the position of the client, including the reasons for the appeal. The local office shall, when requested, assist the client in preparing the appeal in order to expedite the proceedings.

Upon receipt of any appeal, the Deputy Commissioner for Welfare shall make a record thereof and promptly initiate arrangements for the conduct of a fair hearing.

Disposition of Appeals without Hearing.

The filing of an appeal shall not of itself preclude continued effort to accomplish corrective action or interpretation by the State office and/or local office through informal adjustment procedures. The local office may amend or reverse its decision at any time before a hearing, or the client may have his dissatisfaction clarified through explanation or interpretation at any time before a hearing. It shall be the policy to accomplish disposition of complaints through direct informal and personal relationship with the client wherever possible. However, every client has a right to a fair hearing if he desires it, and once he has made a clear request for such a hearing, the disposition of his appeal through the hearing process shall continue to be available to him, and the hearing shall not be delayed or cancelled, without his consent, solely by reason of informal adjustment procedures meanwhile initiated.

If as the result of satisfactory adjustment or for any other reason, the client desires that a hearing shall be discontinued, cancelled, or abandoned, his request to that effect shall be obtained in writing, except that a request for a hearing will be considered abandoned if neither the client nor his representative appears at the time and place agreed on for the hearing and if, within a reasonable time after the mailing of an inquiry by the appeal authority as to whether he wishes any further action taken on his request for a hearing, no reply is received.

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Time, Place and Notice of Fair Hearing

The fair hearing shall be held at a time, date and place most reasonably convenient for the client and other parties, but in any event within 30 days of the receipt of the appeal. The local office concerned will make such arrangements as are proper and necessary to enable the client to attend the hearing without expense of transportation.

The appeal authority will give all parties concerned at least one week's notice in writing of the time, date and place to appear for the hearing. When such notice is given to the client there will be included a copy of the statement entitled "How a Fair Hearing is Conducted" in order that the client may be advised as to preparation for the hearing and presentation of the case.

Appeal Authority

All fair hearings will be conducted by direction of the Commissioner of Institutions and Agencies who may designate the Deputy Commissioner for Welfare or other representative to conduct the hearing and to render a decision thereon, but such representative will be selected for impartiality and non-participation in the particular matter under consideration.

The term "appeal authority" as used herein refers to the person conducting the hearing.

Conduct of Fair Hearing

The fair hearing shall in all respects be informal and conducted in an atmosphere conducive to the full development of facts. Formal rules of evidence will not be applied and an effort will be made to conduct the hearing in such manner that all parties will feel free and able to present all relevant aspects of the situation.

Only those persons will be admitted to the hearing whose testimony and presence are necessary to a full and fair determination, but the client will have the option of being represented. The appeal authority will employ all reasonable and available means to secure attendance of persons who may assist the client in the presentation of his case.

At the beginning of the hearing the client will be given the opportunity of making a statement of the situation as he sees it. The appeal authority will then state the point at issue, subject to amendment or correction by the client or any of the other parties concerned.

The hearing will be concerned only with such facts as are relevant to the point at issue, but the circumstances may be considered both as they existed at the time of request for hearing and at the time of hearing. If it develops that the real issue differs from that on which the request for hearing was based, then the hearing will not abate but the real point at issue will be considered, subject to adjournment as may be necessary for proper development of the new questions presented.

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All parties will be given the opportunity to offer evidence and to question witnesses. The client will be given opportunity to examine all documents and records, or parts thereof, which are used as evidence at the hearings.

At any time during the proceedings the appeal authority, at his discretion, may declare an adjournment or adjournments. No one adjournment shall exceed thirty days, and the total of all adjournments shall not exceed sixty days, unless a greater extension of time is requested by the client and approved by the appeal authority.

Report of Hearing and Official Record

An official report will be prepared by the appeal authority containing the substance of what transpired at the hearing, and a copy of such report will be attached to each copy of decision when rendered and forwarded to the parties concerned. Such report of the hearing, together with any papers and requests filed in the proceeding, and the decision as rendered, will constitute the official and complete record of the fair hearing.

An official and complete record of each fair hearing will be maintained in the files of the state office for at least one year after the date decision is rendered.

Decision on Fair Hearing

The decision of the appeal authority based on the evidence produced at the hearing will be rendered in writing within 20 days after completion of hearing. Such decision shall be final and shall be mandatory and binding upon all parties concerned.

Every decision of the appeal authority shall be so written as to set forth in summary form the issue or issues in question, the principal and relevant facts developed at the hearing, the pertinent provisions in law and in agency policy, and the reasons upon which the decision is based. If the decision results from mutual agreement of the parties at the hearing, it shall be so stated.

Copies of the full text of the decision will be forwarded simultaneously to the appropriate State office and to the local offices responsible for carrying out the decision. At the same time a notice of the decision, setting forth the effective conclusions arrived at, shall be forwarded to the client.

The appropriate State office will take such steps as may be necessary to assure itself that the decision has been carried out.

Effective Date

These regulations shall be effective July 1, 1948.

(signed) Sanford Bates
Sanford Bates, Commissioner
Department of Institutions and
Agencies

June 4, 1948

11-009583

STATE BOARD OF CONTROL RESOLUTION OF JULY 24, 1951

.....
"BE IT RESOLVED by the New Jersey State Board of Control of
Institutions and Agencies:

"1. As provided in Section 5, Chapter 139, P.L. 1951, the
following general policies are adopted for the guidance of
the Commissioner in issuing rules and regulations concerning
assistance for needy persons, eighteen years of age and
older, who are permanently and totally disabled.

.....
"5. Provisions shall be made for fair hearings for dissatis-
fied applicants and recipients.

.....

STATE BOARD OF CONTROL RESOLUTION OF JULY 21, 1951

.....
"BE IT RESOLVED by the New Jersey State Board of Control of Institutions and Agencies:

"1. As provided in Section 2, Chapter 132, P.L. 1951, the following general policies are adopted for the guidance of the Commissioner in issuing rules and regulations concerning assistance for needy persons, eighteen years of age and older, who are permanently and totally disabled.

.....
"2. Provisions shall be made for fair hearings for dissatisfied applicants and recipients.
.....

STATE OF NEW JERSEY
DEPARTMENT OF INSTITUTIONS AND AGENCIES
DIVISION OF WELFARE

HOW A FAIR HEARING IS CONDUCTED

You, as a client either seeking or receiving assistance, have said that you are not satisfied with what has been done for you by the local welfare office. In that case the New Jersey Law says you have a right to a fair hearing so that your complaint can be considered. This information is being given to you so that you will know what will take place at the hearing, and then you can be prepared to tell your story at the hearing in the best way.

1. THE HEARING WILL BE HELD BY A PERSON REPRESENTING THE STATE COMMISSIONER OF INSTITUTIONS AND AGENCIES WHO HAS THE AUTHORITY TO DECIDE WHAT IS RIGHT AND FAIR FOR YOU AND SEE THAT IT IS DONE.
2. IF YOU FEEL YOU NEED HELP IN ORDER TO TELL YOUR STORY IN THE BEST WAY, YOU MAY HAVE SOMEONE ADVISE YOU OR SPEAK FOR YOU AT THE HEARING.
3. WHEN THE HEARING STARTS YOU WILL BE ASKED TO SAY WHAT YOUR COMPLAINT IS AND WHAT YOU THINK SHOULD BE DONE. THIS MAY BE DISCUSSED BY THE OTHER PERSONS WHO ARE THERE, AND THEN THE PERSON HOLDING THE HEARING WILL SAY JUST WHAT WILL BE CONSIDERED AT THE REST OF THE HEARING. YOU WILL HAVE A RIGHT TO CORRECT THIS IF YOU THINK IT DOES NOT CLEARLY STATE YOUR COMPLAINT. IT IS IMPORTANT THAT YOU UNDERSTAND WHAT THIS IS, BECAUSE IT IS THE ONLY THING THAT THE PERSON HOLDING THE HEARING WILL LET ANYONE TALK ABOUT.
4. IT MAY BE THAT SOME THINGS HAVE CHANGED BETWEEN THE TIME YOU FIRST MADE YOUR COMPLAINT AND THE DAY THE HEARING IS HELD. THE PERSON HOLDING THE HEARING WILL WANT TO KNOW WHAT THESE CHANGES ARE, BECAUSE THEY MAY BE IMPORTANT IN DECIDING WHAT IS RIGHT AND FAIR.
5. IF THERE ARE OTHER PERSONS WHO KNOW SOMETHING THAT WILL HELP YOU TELL YOUR STORY, YOU MAY HAVE THEM COME TO THE HEARING AS WITNESSES FOR YOU. THE LOCAL WELFARE OFFICE WILL HELP YOU AS MUCH AS THEY CAN IN GETTING THOSE PERSONS TO COME TO THE HEARING.
6. ONLY PERSONS WHO HAVE SOMETHING TO DO WITH YOUR COMPLAINT WILL BE ALLOWED TO COME TO THE HEARING. WHATEVER IS SAID THERE WILL BE CONFIDENTIAL, SO YOU NEED NOT BE AFRAID TO SAY ANYTHING YOU BELIEVE WILL HELP TELL THE TRUE STORY.
7. YOU AND YOUR WITNESSES MAY BE ASKED QUESTIONS BY THE PERSON HOLDING THE HEARING OR BY OTHER PERSONS THERE. ALSO, YOU WILL BE ALLOWED TO ASK QUESTIONS OF ANY OTHER PERSONS WHO MAY SPEAK. IF THERE ARE ANY PAPERS READ AT THE HEARING OR GIVEN TO THE PERSON HOLDING THE HEARING, YOU WILL BE ALLOWED TO READ THEM YOURSELF OR HAVE SOMEONE READ THEM TO YOU.
8. FOR SOME REASON IT MAY BE NECESSARY FOR THE PERSON HOLDING THE HEARING TO ADJOURN OR POSTPONE IT. THIS DOES NOT MEAN THAT THE HEARING IS FINISHED BUT ONLY THAT IT WILL BE CONTINUED ON SOME LATER DAY. YOU MAY ASK FOR THE HEARING TO BE ADJOURNED OR POSTPONED UNTIL A LATER DAY IF YOU THINK IT WILL HELP YOU TELL YOUR STORY IN A BETTER WAY.
9. IF YOU SHOULD CHANGE YOUR MIND ABOUT A FAIR HEARING, JUST WRITE TO THE LOCAL WELFARE OFFICE AND TELL THEM SO. IF YOU DO NOT DO THIS YOU WILL BE EXPECTED TO COME TO THE HEARING. IF YOU ARE SICK OR IF FOR SOME OTHER REASON YOU CANNOT COME ON THE DAY WHEN THE HEARING IS TO BE HELD, LET THE LOCAL WELFARE OFFICE KNOW SO THAT IT CAN BE PUT OFF UNTIL SOME LATER DAY. IF THE OTHER PERSONS WHO ARE CALLED TO THE HEARING SHOULD COME, AND YOU DO NOT COME WITHOUT GIVING ANY EXCUSE, IT WILL BE THOUGHT YOU ARE NOT INTERESTED IN HAVING YOUR COMPLAINT HEARD.
10. WHEN THE HEARING IS FINISHED, THE PERSON WHO HAS BEEN HOLDING IT WILL SAY SO AND WITHIN 20 DAYS YOU WILL BE TOLD IN WRITING WHAT IS GOING TO BE DONE.
11. REMEMBER THAT THE PERSON WHO IS HOLDING THE HEARING IS INTERESTED IN EVERY TRUE THING THAT WILL HELP DECIDE WHAT SHOULD BE DONE FOR YOU. THERE IS NO SPECIAL WAY YOU SHOULD SAY ANYTHING AND THERE ARE NO SPECIAL RULES YOU WILL HAVE TO KNOW AS LONG AS YOU ARE ORDERLY AND HELPFUL. THE PERSON WHO IS HOLDING THE HEARING WILL TRY TO HELP YOU IN EVERY WAY.

STATE OF NEW JERSEY
DEPARTMENT OF INSTITUTIONS AND AGENCIES
TRENTON 7

A STATEMENT CONCERNING FAIR HEARINGS IN CONNECTION WITH
OLD AGE ASSISTANCE, HOME LIFE ASSISTANCE, AND AID TO THE BLIND

Under the provisions of State law, persons seeking or receiving assistance who are dissatisfied with any action or lack of action by the county welfare board, the State Board of Child Welfare, or the Commission for the Blind, have the right to ask for a fair hearing.

A fair hearing may be requested by a person who has been denied the opportunity to file an application for assistance, by a person who has filed an application but who feels that action has been unreasonably delayed, by a person who feels that the amount of assistance he is receiving is incorrect, by a person whose assistance payment has been suspended, or by a person who still believes he should receive assistance although his application has been denied or his payment has been discontinued.

It is the policy of the county welfare boards, the State Board of Child Welfare, and the Commission for the Blind to give prompt attention to all complaints by dissatisfied persons and to do everything possible within the law and regulations to adjust complaints in a simple and informal manner. It is not required that a person file a request for a fair hearing in order to obtain prompt consideration of a complaint, or to have the matter reviewed in an informal way by higher authority. Any request for such a review, whether made orally or in writing, will receive prompt attention.

A fair hearing is a method of reviewing complaints by the Commissioner of Institutions and Agencies or his representative. When a fair hearing is requested, the Commissioner will arrange for a suitable time and place for holding the hearing, and a decision will be made based on the testimony and evidence presented at the hearing. Such decision will be final.

A fair hearing may be secured by advising the county welfare board, the State Board of Child Welfare, or the Commission for the Blind of the desire for such a hearing or by addressing a request to the Commissioner of Institutions and Agencies, State Office Building, Trenton, New Jersey.

Every person who has a complaint has a free choice whether it shall be reviewed and adjusted informally by the local office or State office, or whether it shall be reviewed in a fair hearing. If he chooses an informal review, but continues to be dissatisfied with the result, he still has a right to request a fair hearing.

DEPARTMENT INSTITUTIONS AND AGENCIES
Sanford Bates
Sanford Bates, Commissioner

RECORDS OF THE
LEGISLATIVE COMMITTEE ON
EDUCATION

REPORT OF THE
LEGISLATIVE COMMITTEE ON
EDUCATION

FOR THE YEAR 1967

ASSEMBLY

STATE HOUSE

TRENTON, N. J.

1968

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