

Eligibility Specialist Administrative Hearings FEEDBACK

Policy Clarification Comments

Comment: The draft policy transmittal does not articulate ODDS rationale for making this policy change.

Response: Eligibility hearing testimony by an ES is the same expectation ODDS has of a SC testifying to a case service denial/termination, a licensing analyst testifying about an adverse action against a licensed provider or an abuse investigator testifying on their cases. This has been in practice for some time and is currently in rule. This change aligns hearing testimony expectations for consistency.

Comment: Can ODDS provide some data about the total number of hearing requests versus the total number of requests that go to a hearing?

Response: The following data is inclusive of 2018 to 8/31/2021:

- # of total hearing requests: **240**
- # of total hearings actually held (not including no-shows): **44**

Comment: The draft policy transmittal does not indicate how eligibility specialists will know if someone asked for a hearing, when a hearing representative will contact them, their role in discussing and explaining a decision prior to the actual hearing date or how much lead time the eligibility specialist is given prior to a hearing date.

Response: Thank you for bringing up the questions regarding process. The logistics will be outlined in the training that will occur prior to the policy being implemented or any eligibility specialist being required to testify. ODDS is also working on a Worker Guide that will answer questions such as this.

Comment: Some comments express concern about the September 2021 implementation of the policy.

Response: Thank you for the feedback around implementation of the policy. ODDS has adjusted the implementation date on the policy and will now begin implementation by November 1, 2021.

Work-Load Comments

Comment: Many respondents commented that the additional workload to eligibility specialists was not currently captured in the existing Workload model.

Response: ODDS appreciates the comments related to workload model. ODDS is intentionally planning to roll out this work in the Fall 2021 so that there is time to do this work and have it captured in the next Workload model review. Work that is done by the ODDS Diagnosis and Evaluation Coordinators will also be used as part of the next Workload model review.

Comment: Several concerns were identified by eligibility specialists who have not completed core competency training and are consulting with eligibility specialist mentors prior to issuing decision notices.

Response: ODDS appreciates the input and consideration for eligibility specialists who are not fully trained and are not making independent determinations. ODDS Diagnosis and Evaluation coordinators will be available to review and support eligibility specialists prior to any informal conferences or hearings.

Comment: Some respondents expressed that they, through the current Formal Case Consultation process, are being discouraged to go directly to the D & E coordinators for case consultation. Rather, they are being directed to consult with each other first, which increases other eligibility specialists' workload.

Response: ODDS appreciates receiving this information. ODDS has always encouraged that consultation with fellow eligibility specialists occur. If, after consulting with a fellow eligibility specialist, the questioning eligibility specialist still does not have a clear path to a decision, a formal case consult may be submitted to ODDS.

Qualification and Training Comments

Comment: Some comments expressed concern about the qualifications of eligibility specialists to be Department witnesses.

Response: Thank you for the concerns and comments related to ensuring Department witnesses are equipped to provide testimony in administrative hearings. It has always been the expectation that an ES who has attended core competency training and passed individual core competency is qualified to be a Department witness on the merits of a case. ODDS has updated the policy to indicate that the D & E Coordinators will continue to provide witness testimony as necessary for administrative rules and policy interpretation.

Comment: Some respondents expressed concerns about the original "decision-maker" being the witness.

Response: Thank you for sharing concerns around the potential for there to be a conflict of interest when the person making the determination is also called as a

witness during a contested determination. Being able to provide testimony around how an eligibility specialist arrived at a decision is critical to a hearing and will only improve the current process. If necessary, the D & E Coordinators will also be available to provide testimony regarding any administrative rule or policy interpretation.

Comment: Some respondents wanted to know if there is a back-up plan if an eligibility specialist who made the denial determination is not available to testify at a hearing.

Response: ODDS appreciates the questions related to coordination and planning around anticipated and unanticipated staff being unavailable on the day of an administrative hearing. The backup-plan is no different than when an eligibility specialist is out sick or on vacation – it is the CDDP’s responsibility, working with the hearings unit as necessary, to schedule around any foreseen absences.

Service Equity Comments

Comment: Some respondents expressed concern that witnesses for the Department are not from the same racial-ethnic background as themselves.

Response: ODDS has been aware of this service equity concern across all areas of DD services. The department continues to work on service equity measures to address these concerns.