

CALIFORNIA CODE OF REGULATIONS
TITLE 22 SOCIAL SECURITY
DIVISION 1.8. CALIFORNIA DEPARTMENT OF AGING
CHAPTER 5. TITLE III PROGRAMS –STATE HEARINGS

§ 7700. General Provisions.

The Department shall provide an opportunity for a hearing only when both of the following conditions exist:

- (a) The issue to be appealed falls within one of the categories listed in this article.
- (b) All of the procedures specified in this article are strictly followed.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code. Reference: 42 U.S.C. 3025(b)(5)(C) and 3027(a)(5); and 45 CFR 1321.29(c) and 1321.35(a).

§ 7702. Definitions.

- (a) "Adverse determination" means a determination or decision by the Department or an AAA that corresponds to one of the issues in section 7704.
- (b) "Appellant" means an entity who is appealing an adverse determination.
- (c) "Applicant service provider" means an entity, in response to a solicited proposal by an AAA to provide services, that submits an application to provide services under a PSA plan. An entity that submits an unsolicited application to provide services is not an applicant under this section and does not have a right to request a hearing.
- (d) "Departmental hearing Officer" means a staff member of the Department who presides over a hearing when there is an appeal.
- (e) "Existing Service Provider" means an entity that presently is under contract or subgrant with an AAA to provide services under an approved Area plan.
- (f) "External hearing Officer" means an attorney who is retained by the Department to preside over a hearing when there is an appeal and who is not employed by the Department in any other capacity.
- (g) "Respondent" means the entity against which the appeal is taken, either the Department or an AAA.

§ 7704. Adverse Determinations.

Only the actions specified below shall be considered adverse determinations that are subject to a hearing upon request:

- (a) The Department's denial of an application for designation as a PSA from any of the following:
 - (1) A unit of general purpose local government.
 - (2) A region within the State recognized for area wide planning.
 - (3) A metropolitan area.
 - (4) An Indian reservation(s).

(b) Any of the following actions taken by the Department against an AAA:

(1) The disapproval of its Area plan or plan amendment.

(2) The withholding, suspension, or termination of its funds, including cancellation of its contract.

(3) The revocation of its designation as an AAA.

(c) Any of the following actions taken by an AAA once the administrative remedies through the AAA have been exhausted:

(1) A reduction in the level of funding to an existing service provider during a contract or subgrant period. However, a reduction directly attributable to a reduction in the of funding to AAAs by the State or federal government shall not be considered an adverse determination.

(2) A cancellation or termination of an existing service provider's contract or subgrant prior to the contractor's or subgrant's expiration date.

(3) The denial of an application to provide services from an applicant service provider when any of the following exist:

(A) The presence of a conflict of interest, real or apparent, as specified in 45 CFR 92.36(b)(3).

(B) The occurrence of a procedural error or omission, such as the failure of an AAA to include a federal mandate in its solicitation request.

(C) The lack of substantial evidence to support an AAA's action.

§ 7706. Notice of Adverse Determination.

A notice of adverse determination from the Department or an AAA shall meet all of the following conditions:

(a) Be in writing and delivered by either of the following methods:

(1) Faxed with a mailed follow-up original.

(2) Certified or overnight mail, return receipt requested.

(b) Describe the grounds for the adverse determination in sufficient detail to enable the entity to respond.

(c) Include all of the following information:

(1) The reason(s) for the adverse determination.

(2) The evidence on which the adverse determination is based.

(3) The effective date of the adverse determination.

(4) The legal or contractual citation upon which the adverse determination is based.

(5) A citation to, or copy of, the hearing process to be followed, including the entity's right to a hearing and the time period in which to request a hearing.

(6) In addition, an AAA shall include in its final notice of adverse determination to an existing service provider or an applicant service provider a statement that all appeal procedures have been exhausted.

§ 7708. Request for a hearing with the Department.

(a) An existing service provider or applicant service provider shall exhaust all levels of the AAA's appeal process prior to requesting a hearing.

(b) All requests for hearing shall be:

(1) In writing and addressed to the Director, California Department of Aging, 1600 K Street, Sacramento, California 95814. A copy of the request shall be sent to the AAA, if applicable.

(2) Sent by fax, followed by a mailed original, or certified or overnight mail, return receipt requested.

(c) In the request, the appellant shall set forth all of the following:

(1) The issue as stated in section 7704, that is the basis for the hearing request.

(2) A full statement of the reason(s) for the request and the appellant's position regarding the issue.

(3) A summary of the pertinent facts, applicable law, or regulations in support of its request.

(d) Along with the written request specified in (c), an appellant shall submit the following attachments:

(1) A copy of the notice of adverse determination.

(2) An existing service provider or applicant service provider shall also submit a copy of the AAA's procedures and all documentation and decisions developed as the appeal procedures were exhausted.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code. Reference: 42 U.S.C. 3025(b)(5)(C) and 3027(a)(5); and 45 CFR 1321.29(c) and 1321.35(a).

§ 7710. Deadline for Requesting a hearing.

(a) An existing service provider or applicant service provider shall submit its written request for hearing to the Department within 30 calendar days from the date of receipt of the AAA's final adverse determination.

(b) All other appellants shall submit their written request within 30 days of receipt of the Department's notice of adverse determination.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code. Reference: 42 U.S.C. 3025(b)(5)(C) and 3027(a)(5); and 45 CFR 1321.29(c) and 1321.35(a).