



Department of Human Resources  
311 W. Saratoga St.  
Baltimore, MD. 21201-3521

## FIA ACTION TRANSMITTAL

Issuance Date: SEPTEMBER 20, 1996

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**TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES  
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT  
FAMILY INVESTMENT SUPERVISORS/ELIGIBILITY STAFF**

*K Cook for K Mahon*  
**FROM: KEVIN MAHON, EXECUTIVE DIRECTOR, FIA**

**RE: HEARINGS AND APPEALS**

**PROGRAMS AFFECTED: ALL FAMILY INVESTMENT PROGRAMS**

**ORIGINATING OFFICE: OPA/ DIVISION OF PROGRAM POLICY AND  
REGULATION**

### **BACKGROUND:**

Requests for appeals made to the local department are forwarded to the Office of Administrative Hearings (OAH) within 5 working days of receipt. That office schedules a hearing date. The local department is responsible for submitting a summary of facts regarding the appeal to OAH and the customer, attempting to resolve the appeal before the scheduled hearing, and attending the hearing.

The Office of Planning, Legislation, and Innovation (OPLI) has advised us of the impact Department of Human Resources vs. Thompson, a decision by the Court of Special Appeals, is having on the manner in which administrative law judges (ALJs) decide all appeals. The case involved the acceptance of additional information at the appeal hearing and the use of that information to decide the "ultimate issue". The "ultimate issue" is the specific issue that was appealed. ALJs no longer simply determine whether or not the local department correctly applied statutes, regulations, and policy, but will examine the local department's decision and all information relevant to that decision to determine the correct decision. ALJs may consider **additional** evidence or information the customer presents at the hearing that has a bearing on the appeal. This includes evidence or information that may not have been available to the local department when it made its decision. If, the ALJ believes that additional evidence or information received may warrant a finding in favor of the customer, the ALJ will usually offer to remand the case to the local department to make a final determination regarding the issue.

### **ACTION REQUIRED:**

Order to reduce the possibility of having a case remanded to the local department or of losing the appeal, actions can be taken to narrow the scope of the "ultimate issue". For instance if an individual has a second vehicle with a \$4,000 Blue Book value but claims that the vehicle is worth less, he or she is given an opportunity

to provide two other estimates. If the individual does not provide the estimates, the case should be closed or denied on the basis that information was not provided rather than on the basis that assets were overscale. This limits the "ultimate issue" to whether the customer provided requested information, not the value of the vehicle.

This change in focus requires that all local department appeal coordinators be attentive to the specific issue on appeal and the evidence relevant to that issue when preparing for an appeal hearing. Appeal coordinators should continue to schedule a conference with the customer, prior to the hearing, in an attempt to resolve the issue before the hearing date.

In addition, the following suggestions should help:

- Recheck calculations. Be able to explain how the grant or allotment was calculated and what formula was used. Have a manual calculation sheet available and be able to explain all aspects of the calculation, i.e. what incomes were used, what expenses were used, and what deductions were given.
- Review program policy. Confirm that the policy used was correct, applicable, and has not changed.
- Be sure that copies of adverse action notifications and other pertinent correspondence are in the record and have been sent to the customer.

Finally, keep in mind that in situations where the customer presents additional evidence or information at the hearing, the local department can request an opportunity to address the new information, and if warranted, request that the ALJ remand the case back to the local department for a review of eligibility factors.

**NOTE:** The above information also pertains to Purchase of Care appeals. Appeals Coordinators shall forward copies of appeal decisions found against the local department to Pamela Evans, Operations Supervisor, Office of Program Development, Child Care Administration, 311 W. Saratoga Street, Baltimore MD 21201.

**DATE ACTION REQUIRED:** November 1, 1996

**ACTION REQUIRED BY:** All local departments.

Direct questions to Annette Smith at (410) 767-7475, Kay Finegan at (410) 767-7939, Yvonne Wiley Batson at (410) 767-7733, or Sue Woolford at (410) 767-7190.

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