

**DATE ISSUED:** October 3, 2012

**FROM:** Kate Probert Fagundes  
DWP/MFIP Employment Services Division Mgr.

**TO:** Ramsey County DWP/MFIP-ES Staff

**SUBJECT:** Dispute Resolutions

**BACKGROUND:**

Program participants challenging an action made on behalf of Workforce Solutions' (WS) employment services (ES) have a right to appeal through the use of a conciliation conference and/or a fair hearing. The word "appeal" is often used to describe the overall dispute resolutions process.

**PURPOSE:**

Discussion between Workforce Solutions (WS) and Community Human Services (CHS) financial assistance managers and staff revealed inconsistent practices within the dispute resolutions process outlined in the [DWP/MFIP ES Manual](#) (Section 14.39). This memo outlines WS expectations regarding dispute resolutions protocol while working with both the MFIP participant and the CHS financial assistance staff (FAS) in addressing disputes.

**A. Overview of the Dispute Resolutions Process**

1. A participant can first request a conciliation conference if they are in disagreement with the contents or interpretation of their Employment Plan (EP), receive a MFIP Notice of Intent to Sanction (NOITS), or a notice of adverse action. Conciliation is an option and is not a requirement prior to requesting a fair hearing.
2. A conciliation conference is an informal meeting conducted face to face (preferred) or over the phone and involves the ES supervisor or manager. The purpose of the meeting is to try to reach a mutual agreement on how to settle the disagreement. Participants who disagree with the outcome of the conciliation conference should then request a fair hearing.
3. A fair hearing is the legal proceeding for a participant disputing DWP or MFIP FAS and/or ES actions. A Human Services judge settles the disagreement through a formal hearing conducted according to Minnesota Statutes.
4. A participant has a right to request a fair hearing if he/she: disagrees with the EP, did not reach an agreement in the conciliation conference, received a NOITS or received notice of adverse action such as a sanction or case closure.
4. Requests for a fair hearing must be submitted in writing to the CHS office or to DHS and be mailed within 30 days after a participant received notice of the disputed FAS and/or ES action or within 90 days of when a participant shows good cause for not submitting the request within 90 days.

## **B. Request for a Fair Hearing for a Case Involving ES**

1. The Appeals Office normally schedules a hearing within 30 days upon receipt of the participant's written request. The Human Services judge may request the hearing to take place in person or over the phone.
2. Within three days, the FAS (financial worker and/or lead) staff assigned the case, must review the allegations, contact the participant to identify any issues that may be unclear and attempt to resolve the issues by addressing participant questions and concerns and by correcting any known FAS errors. FAS must case note all attempts to reach the participant.
3. FAS must contact ES (using CAFÉ to identify the current ES counselor) and ensure NOITS were sent and all other policy followed. FAS will ask whether or not a conciliation conference was offered and the resulting conclusions. FAS will verify that the ES staff connected to the disputed ES action will attend the hearing. The Dispute Resolutions Representative may also choose to attend the hearing.
4. A copy of the Dispute Resolutions Representative Chart will be located on the WS Provider website.
5. FAS will request ES to provide a summary of action regarding the disputed case along with supporting documents such as copies of NOITS and EPs to be sent back to FAS within a specified time period (usually 3-5 business days). Case notes are not approved supporting documentation as they are often subjective and each person who has written a case note related to that case could be called as a witness during the hearing; information found in the case notes can however, be used as part of the ES summary. FAS must case note contact with ES. If ES staff does not respond to FAS within 24 hours, FAS will contact the designated ES Dispute Resolutions Representative. The ES Dispute Resolutions Representative must sign off on all information supplied back to ES.
6. With FAS supervisor approval, FAS will summarize all FAS and ES information and documentation collected onto the [State Agency Appeal Summary](#) form; FAS will then send the information to the appeals clerk. FAS will not send the appeal summary prior to receiving ES summary of action and supporting documentation.
7. FAS will provide copies of the State Agency Appeal Summary as well as supporting documentation to both the participant and DHS at least three working days prior to the scheduled hearing.
8. FAS and ES representatives, their supervisors, and/or designated Dispute Resolutions Representatives will plan to attend the scheduled fair hearing (either in person or via teleconference).
9. FAS and ES are each expected to case note attendance to the hearing and are expected to immediately follow through with the judge's recommended actions.

**REQUIRED ACTION:** Review policy with all applicable staff and follow all outlined expectations.

**EFFECTIVE DATE:** October 3, 2012

**CONTACT PERSON:** Agency Lead Planner