

1.6	<b>Notice and Hearing for Agency Actions</b>	Page 1 of 3
Authorizing Utah Code: <a href="#">62a-5-103</a>	Rule: R539-3-8 ( <i>effective 12/04</i> ), <a href="#">R497-100</a> , <a href="#">R410-14</a>	Division Staff
Issue date: 5/02	Revision date: 5/04	
Form(s): <a href="#">522-F</a> , <a href="#">522-I</a> , <a href="#">490S</a>		

The **Division** shall resolve any disputes with **Persons** promptly and amiably. For this reason, the **Division** encourages all parties to discuss their issues informally instead of relying solely on the administrative hearing process. As described in more detail below, a **Person/Representative**, the **Division** and other interested parties may use a variety of formal and informal procedures to resolve differences.

## PROCEDURE

### A. Notice of Agency Action

1. At least 30 days before the **Division** or the **Region** changes, terminates or reduces a **Person's** services or benefits, or denies or defers a **Person's** request for services, the **Division** or **Region** shall send the **Person/Representative** a written Notice of **Agency Action** on either **Form** 522-I or **Form** 522-F.
  - a. **Form** 522-I is used when the **Person/Representative** has a right to request an administrative hearing with the Dept. of Human Services pursuant to R497-100, (e.g., where the **Person's** services are funded by state funds).
  - b. **Form** 522-F is used when the **Person/Representative** has a right to request a administrative hearing with the Dept. of Health, Division of Health Care Financing pursuant to R410-14, (e.g., where the **Person's** services are funded by **Medicaid Waivers**).
2. The **Division** or **Region** shall send the **Person/Representative** a Hearing Request (**Form** 490S) when the **Division** or **Region** sends the Notice of **Agency Action** (**Form** 522).
3. If a **Person/Representative** is unable to read or comprehend the written Notice of **Agency Action**, the **Support Coordinator** assigned to that **Person** shall explain and discuss the **Agency Action** with that **Person** directly in addition to mailing the Notice of the **Agency Action** (**Form** 522) to the **Person/Representative**.

### B. The Division's Dispute Resolution Process.

The informal dispute resolution process described in this section is designed to help the **Division** respond to a **Person's/ Representative's** concerns without unnecessary formality. The dispute process is not intended, however, to limit a **Person's/Representative's** access to administrative hearings. Even if a **Person/Representative** chooses to use the **Division's** dispute resolution process, that **Person/Representative** may also file a request for an administrative hearing at any time before the 30-day deadline.

When the **Region** receives a Hearing Request (**Form** 490S), the **Region** shall begin the following three-step dispute resolution process unless the **Person/Representative** requested

otherwise in the Hearing Request **Form**:

STEP 1: The **Region Support Coordinator** Meets with the **Person/Representative** to Explain the Reasons for the **Agency Action**.

Upon receipt of the Hearing Request **Form**, the **Person's Support Coordinator** and other **Region** staff shall attempt to resolve the issue by meeting informally with the **Person/Representative**, explaining the regulations and statutes upon which the action is based, and attempting to resolve any confusion or disagreements.

STEP 2: The **Supervisor** or **Region Director** Reviews the Concerns.

If Step 1 (meeting with the **Support Coordinator**) does not resolve the problem, the **Person/Representative** may request, orally or in writing, that the **Supervisor** or **Region Director** review the **Person's** concern. The **Person/Representative** must submit this request within 10 business days of being notified of the **Support Coordinator's** decision.

The Region Review shall be conducted by the **Supervisor** and/or the **Region Director**, who shall meet with the **Person/Representative** to discuss the issue, make a decision and then notify the **Person/Representative** of the decision.

STEP 3: The **Division Director** Reviews the Concerns.

If the **Person/Representative** is not satisfied with the **Region's** decision, the **Person/Representative** may request, orally or in writing, that the **Division Director** review the concern. The **Person/Representative** must submit this request within 10 business days of being notified of the decision by the **Supervisor** or **Region Director**.

The **Division** review shall be conducted by the **Division Director**, who shall meet with the **Person/Representative** to resolve the issue and who shall then notify the **Person/Representative** of the **Division's** final decision.

If the problem is not resolved during Step 1, Step 2 or Step 3, the **Person/Representative** may request, orally or in writing, that the **Division** proceed with an administrative hearing on the issue.

C. **Request for Hearing**

If the **Person's/Representative's** Hearing Request indicates that the **Person/Representative** wants a formal or informal administrative hearing, the **Division** or **Region** shall promptly forward the Hearing Request (**Form 490S**) to the appropriate hearing office.

1. If the **Person's** support services are funded by any **Division Medicaid Waiver**, the "appropriate hearing office" is the Division of Health Care Financing in the Utah Department of Health.
2. If the **Person** receives only state funding for support services and receives no funding from a **Medicaid Waiver**, the "appropriate hearing office" is the Office of Administrative

Hearings within the **Department**.

3. If a **Person** receives a combination of State-funded services and **Medicaid Waiver** services, the **Division** or **Region** shall forward copies of the Hearing Request **Form** to both the Office of Administrative Hearings and the Division of Health Care Financing, and shall make reasonable efforts to schedule both administrative hearings on the same date in the same location.