

## Appendix E: Client Appeals Process

### Level 1 (Local Service Provider)

Appeals must be in writing to allow the Service Provider to take action. The letter must state what decision the client is appealing and provide sufficient documentation of the problem. Once the letter and any documentation provided by the client have been received, the Service Provider will:

1. Review the following:
  - a. Appeal letter and documentation provided by the client
  - b. Weatherization Assistant data or notes, household file information, and any other documentation
  - c. Pertinent federal/state rules and WAP policies
2. Take no more than fifteen (15) business days to reach a decision on the appeal, unless additional investigation, research or inspection is required. If additional time is needed, the client must be sent a letter within fifteen (15) business days that explains why a decision has not been made, what information is needed and the anticipated timeline.
3. Inform the client in writing of its decision, including:
  - a. Reason for the decision
  - b. Any action the Service Provider will take to resolve the issue
  - c. Information about how to appeal to the next level that included at least the following information:
    - i. That the appeal to Commerce must be postmarked no more than 15 business days from the date of the Service Provider's decision
    - ii. Commerce's address
    - iii. Name/phone number of the Commerce's Authorized Representative/Weatherization Supervisor.
4. Notify Commerce in cases where the Service Provider receives an appeal and upholds the decision made. Commerce does not need to be notified if the decision is reversed at Level 1.

### Level 2 (Commerce)

If the client is not satisfied with the Service Provider's decision, he/she may file a written appeal to Commerce. In order to be considered by Commerce, the appeal must be postmarked within fifteen (15) business days of the date of the Service Provider's decision. Commerce will:

1. Notify the local Service Provider that an appeal has been received
2. Request that the Service Provider forward all documents in the household file, including the client's local appeal letter and the Service Provider's response to the appeal. In addition, Commerce will review the most recent Weatherization Assistant file data, if applicable
3. Review all documents/details without preference to previous decisions made by the Service Provider (de novo) and relevant to the appeal
4. Analyze the appeal issues in relation to federal, state, and program rules and policies
5. Issue a written decision to the applicant/recipient by certified mail within fifteen (15) business days of the receipt of all appeals material, unless additional investigation, research or inspection is required. If additional time is needed, the client must be sent a

letter within 15 days that explains why a decision has not been made, what information is needed, and an anticipated timeline. The written decision must include, at minimum:

- a. Reason for the decision
- b. Information on how to appeal to the next level, if applicable, including the fact that the next level is a public process and that, therefore, all information related to the client and their appeal will become public information

In the case of an appeal regarding a deferral, Commerce's decision constitutes the last step in the administrative appeals process.

### **Level 3 (Office of Administrative Hearings/Commissioner)**

Except for appeals related to WAP service deferral, if the client is not satisfied with the Commerce decision, the client may make a written request to the Manager of the State Energy Office for an appeal to the Office of Administrative Hearings (OAH) and the Commissioner of Commerce. When a request for appeal is received, Commerce will, within a reasonable time:

1. Arrange a hearing date that allows adequate time for notification of the client, the Service Provider and other applicable persons as described below
2. Reserve a room for the hearing
3. Prepare/send proper forms and documents
4. Prepare evidence to support its decision

The OAH hearing will be presided over by an Administrative Law Judge (ALJ). Hearing attendees may include:

1. Client (Complainant)
2. Client's lawyer (if desired by the Complainant)
3. Commerce, which will be represented by an Assistant Attorney General from the Office of the Attorney General
4. Service Provider representative

The ALJ will review Commerce's decision to determine whether it is arbitrary or capricious, which means that the decision was unreasonable or was made without regard to substantial evidence or law. A determination is not arbitrary or capricious as long as Commerce has articulated a rational connection between the facts that it found and the decision that it made.

Once the hearing is complete:

1. The ALJ considers the arguments that have been presented and renders a written recommendation to the Commissioner of Commerce
2. The Commissioner reviews the recommendation and makes the final decision with regard to the appeal
3. The Commissioner's decision constitutes the last step in the administrative appeals process