

XIV. Fair Hearings

A. Requests

A request for a fair hearing is a written expression, by the applicant or recipient, or any person acting for him/her, to the effect that he/she wants an opportunity to present his/her case to a higher authority. When a request for assistance is denied or when an applicant desires to challenge a decision made by the Public Assistance Administrator relative to the receipt of assistance, the applicant must present a request for a fair hearing to the Public Assistance Administrator within five (5) working days of receipt of the notice of decision at issue. RSA 165:1-b, III. See Form O.

B. Time Limits for Hearings

Hearings requested by claimants must be held within seven (7) working days of the receipt of the request. The Public Assistance Administrator shall give notice to the claimant setting the time and location of the hearing. This notice must be given to the claimant at least forty-eight (48) hours in advance of the hearing, or mailed to the claimant at least seventy-two (72) hours in advance of the hearing.

C. The Fair Hearing Officer(s)

The fair hearing officer or officers shall be chosen by the Chairman of the Board of Selectman. The person(s) serving as the fair hearing authority must:

1. Not have participated in the decision causing dissatisfaction;
2. Be impartial;
3. Be sufficiently skilled in interviewing to be able to obtain evidence and facts necessary for a fair determination;
and
4. Be capable of evaluating all evidence fairly and realistically, to explain to the claimant the laws and regulations under which the Public Assistance Administrator operated, and to interpret to the Public Assistance Administrator any evidence of unsound, unclear or inequitable policies, practices or action.

D. Fair Hearing Procedures

1. All fair hearings shall be conducted in such a manner as to ensure due process of law. Fair hearings shall not be conducted according to strict rules of evidence. The burden of proof shall be on the claimant, who shall be required to establish his/her case by a preponderance of the evidence.

2. The Public Assistance Administrator responsible for the disputed decision shall attend the hearing and testify about his/her actions and the reasons therefore.

3. Both parties shall be given the opportunity to offer evidence and explain their positions as fully and completely as they wish. The claimant shall have the opportunity to present his/her own case or, at the claimant's option, with the aid of others, and to bring witnesses, to establish all pertinent facts, to advance any arguments without undue interference, to question or refute testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

4. A claimant or his/her duly authorized representative has the right to examine, prior to a fair hearing, all records, papers and documents from the claimant's case file which either party may wish to introduce at the fair hearing, as well as any available documents not contained in the case file but relevant to the Public Assistance Administrator's action of which the claimant complains. The claimant may introduce any such documents, papers or records into evidence. No record, paper or document, which the claimant has requested to review but has not been allowed to examine prior to the hearing, shall be introduced at the hearing or become part of the record.

5. The Public Assistance Administrator (or a duly authorized representative) shall have the right to examine at the fair hearing all documents on which the claimant plans to rely at the fair hearing and may request a 24-hour continuance if such documents contain evidence not previously provided or disclosed by the claimant. Should the applicant have new documentation relevant to the disputed decision, he/she may reapply for assistance and file a written withdrawal of the fair hearing request.

6. The decision of the fair hearing officer(s) must be based solely on the record, in light of these guidelines. Evidence, both written and oral, which is admitted at the hearing shall be the sole contents of the record. The fair hearing officer shall not review the case record or other materials prior to introduction at the hearing.

7. The parties may stipulate to any facts.

8. All fair hearings may be tape-recorded and retained for six (6) months.

E. Decisions

1. Fair hearing decisions shall be rendered within seven (7) working days of the hearing. Decisions shall be in writing setting forth the reasons for decision and the facts on which the fair hearing officer relied in reaching the decision. A copy of the decision shall be mailed or delivered to the claimant and to the Public Assistance Administrator.

2. Fair hearing decisions will be rendered on the basis of the officer's findings of fact, these guidelines and state and federal law. The fair hearing decision shall set forth appropriate relief.

3. The decision shall be dated. In the case of a hearing to review a denial of aid, the decision is retroactive to the date of the action being appealed. If a claimant fails to prevail at the hearing, the assistance given pending the hearing shall be a debt owed by the individual to the Town of Francestown.

4. The Public Assistance Administrator shall keep all fair hearing decisions on file in chronological order.
5. None of the procedures specified herein shall limit any right of the applicant or recipient to subsequent court action to review or challenge the adverse decision.