**Section 510.80 Request for a Hearing**

a) If dissatisfied with any determination made by DHS-ORS concerning the furnishing, timeliness or denial of services, the customer may request a timely review of these determinations. This request for a hearing shall be made through the Hearings Coordinator or by completing a request for hearing (IL 488-1949) and presenting it to DHS-ORS. The person receiving the request shall immediately forward it to the Hearings Coordinator.

b) A grievant must request a hearing within the following time limits:

1) if the request is for review of an action by DHS-ORS VR program or HSP, it must be received within 30 calendar days after the date the grievant receives notice, or knew or should have known of the issue being grieved, or 35 calendar days after the date of the post mark on the notice, if the customer was informed by mail, whichever is later;

2) if the request relates to an available vending facility location, it must be made within 5 working days after receipt by the grievant of the notice of selection; or

3) if the grievance pertains to the conduct of a customer in the adult residential training program for persons with visual disabilities, the request must be received within 2 working days after the date of the action or inaction being grieved.

c) The request for a hearing must state whether the grievant is unable to attend a hearing in the local DHS-ORS facility due to the grievant's disability. The Hearings Coordinator or Impartial Hearing Officer will contact the grievant or, as appropriate, the grievant's representative to determine a mutually acceptable date for the hearing. Except as set forth in Section 510.80(j)(3) and as specified by the Department of Public Aid for HSP hearings, in no case shall the hearing be held later than 60 calendar days after receipt of the grievant's request, unless the parties agree to a specific extension of time.

d) At least 10 days prior to the scheduled date of the hearing, the DHS Hearings Coordinator or Impartial Hearing officer shall send the grievant a letter, certified mail, return receipt requested:

1) acknowledging the request for the hearing;

2) stating the date, time and location for the hearing;

3) stating the name and address of the individual who shall act as the Impartial Hearing Officer;

4) containing a statement of the issues being grieved;

5) informing the grievant of the rights accorded under this Part;

6) informing the grievant of the options of the informal resolution conference and, for vocational rehabilitation customers, of the Mediation Process; and

7) directing the grievant to the proper individual to whom to direct the request for these options in accordance with Sections 510.100 and 510.103 of this Part.

e) DHS-ORS shall make an audio tape recording of the hearing proceedings and will, upon request, provide one copy to the grievant at no cost. If an audio tape is not an accessible format for the grievant, upon request of the grievant, DHS-ORS shall prepare a transcript in an accessible format, and provide one copy of the transcript to the grievant at no cost.

f) The official record of the hearing shall consist of:

1) all pleadings, motions, and rulings;

2) evidence, including testimony and exhibits;

3) a statement of matters officially noticed;

4) offers of proof;

5) objection and rulings thereon;

6) the Impartial Hearing Officer's decision or findings of fact and recommended decision, as applicable; and

7) if applicable, documents and decisions from an Associate Director's Review (Section 510.110).

g) For grievances arising from the VR Program, findings of fact and the decision, prepared by the Impartial Hearing Officer, will be mailed within 30 calendar days after the adjournment of the Hearing. The decision of the Impartial Hearing Officer shall be binding on DHS-ORS. DHS-ORS shall initiate implementation of the decision on the date specified in the decision, but no later than 20 calendar days after its receipt. No employee of DHS-ORS shall interfere with the implementation of the decision.

h) For grievances pertaining to the conduct of a customer in the adult residential training program for persons with visual disabilities, the findings of fact shall be provided within 2 working days after the adjournment of the hearing.

i) For a grievance arising from the selection of a vendor for a vending location in the Business Enterprise Program for the Blind, the Impartial Hearing Officer shall submit his/her recommended decision to the Associate Director within 15 days after the date of adjournment of the hearing. The recommendation shall be based upon the record of the hearing, citing applicable provisions of law and policy. The Associate Director shall mail the final decision on the appeal to the grievant, and as appropriate, the grievant's representative, within 5 working days after receiving the Impartial Hearing Officer's recommendation. The Associate Director's decision shall state the principal issues and relevant facts brought out at the hearing, pertinent provisions in law and DHS-ORS policy, the reasoning that led to the decision, the right to appeal pursuant to Section 510.120(c), and the effective date of the decision and shall have attached a copy of the Impartial Hearing Officer's recommendation.

j) For hearings arising from HSP, in addition to the other provisions contained in this Part, the following procedures shall apply:

1) after receipt of the request for the hearing, pursuant to Section 510.80(b)(1), the Hearings Coordinator shall forward the request to DPA which, pursuant to Medicaid Regulations, shall have administrative authority over all hearings arising from HSP;

2) the hearing shall be conducted by an Impartial Hearing Officer approved by DPA;

3) DPA's rules, as set forth at 89 Ill. Adm. Code 104, shall apply, except 89 Ill. Adm. Code 104.10, 104.11, and 104.80. All other rules contained in this Part shall apply to the extent they do not conflict with DPA's rules;

4) DPA, DHS and the Impartial Hearing Officer shall make any reasonable accommodation necessary to ensure that the customer is able to file an appeal and participate in the hearing;

5) the hearing shall be held in the local DHS-ORS office unless, because of the grievant's disability, the grievant is unable to attend the hearing in the local DHS-ORS office. In such instances, the hearing shall be held in the grievant's home; and

6) the decision shall be issued and implemented within 90 days after the date of the request for hearing; however, that time shall be extended by the length of any continuance or postponement requested or agreed to by the grievant.

(Source: Amended at 27 Ill. Reg. 9576, effective June 13, 2003)