100.03.06 STATE HEARINGS

When a request for a state hearing is received in the regional office, the request will be noted with the receipt date and forwarded to state office. A copy of the state hearing request will be retained for the case record. The regional office will proceed with preparation of the state hearing folder. The folder must be mailed within five (5) days of receipt of the state hearing request.

If the request for a state hearing is mailed directly to state office, a copy of the request will be forwarded to the appropriate regional office so the state hearing record can be prepared and sent in.

A state hearing is assigned to an impartial hearing officer. Impartial means the hearing officer has not been involved in any way with the action or decision under appeal.

100.03.06A REVIEW BY STATE HEARING OFFICER

Upon receipt of the state hearing folder, the hearing officer will review the material submitted. If the review shows an error was made in the action of the regional office or in the interpretation of policy or that there has been a change in policy, the hearing officer will discuss the issue with the Bureau Director, Deputy, over the regional office involved in the hearing and if appropriate, ask that an adjustment be made. The regional office will then discuss this matter with the client. If the client is agreeable to the adjustment of the claim, the state hearing request will be withdrawn in writing with the reason for the withdrawal stated.

Otherwise, if the action of the regional office is in order, the hearing officer will request any additional information from the case record that appears to be needed and will schedule the hearing.

100.03.06B HOLDING THE STATE HEARING

In conducting the hearing, the hearing officer will provide the following information to those present:

- The hearing will be recorded and a transcript of the proceeding will be typed for the record.
- The reason for the hearing, i.e., the action taken by the regional office which prompted the appeal.

Holding The State Hearing (Continued)

- The client's rights and the purpose of the hearing.

  NOTE: Even though the state hearing officer uses a hearing folder to conduct the hearing, the actual case record must be available for review by the client or representative before, during or after the state hearing.

- The final hearing decision will be rendered by the Executive Director of the Mississippi Division of Medicaid on the basis of the facts discussed at the hearing and the claimant will be notified in writing of this decision.

During the hearing the client or his representative will be allowed an opportunity to make a full statement concerning his appeal and will be assisted, if necessary, in disclosing all information on which the claim is based. All persons representing the claimant and those representing the regional office will have the opportunity to state all facts pertinent to the appeal. When all information has been presented, the hearing officer will close the hearing.

100.03.06C RECESSING OR CONTINUING A STATE HEARING

If additional information is determined to be needed during the state hearing, the hearing officer may recess or continue the hearing as follows:

- Recessing the Hearing

  If additional information is needed and this information is readily available, the hearing officer will recess the hearing for the time required to obtain the facts.

- Continuing the Hearing

  If the information needed is not readily available, the hearing officer will continue the hearing to a suitable later date. If the time at which the information will be obtained is known, the hearing officer, before adjourning the original hearing, will set the time and place for the continued hearing at the earliest possible date, notifying the principals that there will be no further notice. The hearing officer will reach an agreement with the client and any persons attending on his behalf about bringing the needed information to the continued hearing.

  The hearing cannot be extended beyond the time limit for completion of a hearing.

100.03.06D CHANGES WHICH OCCUR DURING THE HEARING PROCESS

If the regional office becomes aware of a change in the client's circumstances which will result in an adverse action other than the issue currently under appeal, the client must be notified in writing. Adverse action notice requirements, i.e., 10-day notice plus 2 days mailing time, must be met and action taken as follows:

Change Discovered Prior to State Hearing

If the state hearing has not yet been held, the client may choose to have the new adverse action issue incorporated into the current appeal; however, the client must first request an appeal in the usual manner. If the new hearing request is filed in time for the issue to be considered in the current hearing process, the regional office will notify the hearing officer of the additional issue under appeal. In this instance, the hearing may have to be rescheduled to allow the client time to prepare for the hearing.

Change Discovered During the State Hearing

If the change in circumstances is discovered during the actual hearing, the hearing officer will recess the hearing and notify the regional office to send the appropriate 10-day notice. The hearing will be reconvened after the adverse action notice is mailed and the advance notice period has expired. The client may choose to include the new issue in the hearing when it is reconvened. The hearing will be reconvened following the usual procedure for setting the time and place.

100.03.06E REVIEW BY DDS STAFF

When the issue under appeal is disability or blindness, a review by DDS is required. After the hearing, the hearing officer will forward all medical information to the Disability Determination Service for reconsideration.

A review team consisting of medical staff who were not involved in any way with the original decision will review the medical information and hearing transcript and give a decision on the disability or blindness factor. The DDS decision is final and binding on the agency.

100.03.06F RECOMMENDATION OF THE STATE HEARING OFFICER

After the hearing, the final decision of the hearing officer must be based on oral and written evidence, testimony, exhibits and other supporting documents which were discussed at the hearing. The decision cannot be based on any material, oral or written, not available to and discussed with the claimant.

Following the hearing, the hearing officer will make a written recommendation of the decision to be rendered as a result of the hearing. The recommendation, which becomes part of the state hearing record, will cite the appropriate policy which governs the recommendation.

100.03.06G DECISION OF THE AGENCY

The Executive Director of the Division of Medicaid, upon review of the recommendation, proceedings and the record may sustain the recommendation of the hearing officer, reject the recommendation or remand the matter to the hearing officer for additional testimony and evidence, in which case the hearing officer will submit a new recommendation to the Executive Director after the additional action has been taken.

As soon as possible after the hearing officer makes a recommendation, a written decision summarizing the facts and identifying the policies and regulations which support the decision will be prepared and mailed to the client or representative, with a copy to the regional office, Bureau Director, Deputy, and the Deputy Administrator for Enrollment.

The decision letter will specify any action to be taken by the agency and any revised eligibility dates. If the decision is adverse and continuation of benefits is applicable, the claimant will be notified of the new effective date of reduction or termination of benefits or services, which will be fifteen (15) days from the date of the notice of decision.

The decision of the Executive Director of the Division of Medicaid is final and binding. The client is entitled to seek judicial review in a court of appropriate jurisdiction. Should the client file an appeal the second time without a change in circumstances or agency policy, the client will be notified in writing by the appropriate office explaining that the appeal cannot be honored. If the client's circumstances or agency policy have changed, the client will be advised to file a new application.

100.03.06H CHIP AGENCY ERRORS

The Division of Medicaid is responsible for ensuring payment for eligible beneficiaries. Providing timely CHIP benefits is a special concern because, unlike Medicaid, the CHIP effective dates are determined relative to monthly processing deadlines which do not allow the regional office to take retroactive or corrective action when an error is discovered for a prior month.

Each regional office must have a plan for timely and accurate case processing to prevent CHIP errors. This may include upfront identification of potential CHIP applications, flagging CHIP cases submitted for supervisory review, routing and handling of information within the office and monitoring reports. These types of procedures must be in place and functioning in the regional office to limit the number of CHIP agency errors.

When CHIP agency errors occur, resolution must come through a local or state hearing request. When a state or local hearing is requested due to loss of CHIP benefits and the review by the regional office determines an agency error did occur, the final hearing decision for local and state hearings will be made in the Bureau of Enrollment. The regional office must not issue a verbal or written hearing decision on these cases.

The regional office will be responsible for preparing a hearing folder to include an explanation of how the error occurred, the months of agency error, the children involved, along with copies of pertinent documents from the case record and MEDSX. The hearing folder will be sent to the Enrollment Bureau.

NOTE: If a fair hearing is requested on a CHIP termination or denial and agency error was not involved, the procedures described previously in this section will be followed based on the type of hearing requested, i.e., local or state.