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Document No. 5038  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
CHAPTER 88  
Statutory Authority: 1976 Code Section 44-20-220

Article 7. Appeal Procedures. (New)

**Preamble:**

The Department of Disabilities and Special Needs proposes to add Article 7 to provide the procedure for the appeals of adverse decisions within the scope of state funded services provided by the Department of Disabilities and Special Needs. Specific sections added are Regulations 88-705, Definitions; 88-710, Appeals; and 88-715, Appeal Procedures.

Section-by-Section Discussion

88-705. Definitions. New.

88-710. Appeals. New.

A. Describes decisions that may be appealed. New.

88-715. Appeal Procedures. New.

A. Details steps for applicants filing appeals. New.

B. Details administrative process for the Department. New.

A Notice of Drafting was published in the *State Register* on December 25, 2020.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on April 15, 2021, thirty minutes after the adjournment of the regular Commission meeting. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., March 29, 2021. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

**Preliminary Fiscal Impact Statement:**

There will be no increased cost to the State or its political subdivisions.

**Statement of Need and Reasonableness:**

DESCRIPTION OR REGULATION:

Purpose: This article is added to ensure that citizens who apply for eligibility for state funded services through the Department of Disabilities and Special Needs, or are denied eligibility or services, have services reduced, suspended, or terminated are aware of appeal procedures for adverse decisions in the scope of state funded services.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The added regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no increased cost to the State or its political subdivisions.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

**EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:**

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:**

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

**Statement of Rationale:**

These regulations are added to clarify and state Department procedures.

~~Indicates Matter Stricken~~

Indicates New Matter

**Text:**

ARTICLE 7  
APPEAL PROCEDURES

88-705. Definitions.

A. Appeal: A procedure by which a person seeks review of the denial of a determination of eligibility. A procedure by which a person seeks review of a decision to deny, suspend, reduce or terminate a service solely funded by the Department.

B. Applicant: A person about whom the Department has been contacted in order for a determination of eligibility for services of the Department.

C. Family Support Services: A coordinated system of family support services administered by the Department directly or through contracts with private nonprofit or governmental agencies across the State, or both. This system is solely funded by the Department.

D. Person Eligible for Services from the Department: An individual who has been determined by The Department to meet the criteria for eligibility for the Department services.

E. State Funded Case Management: Activities, provided by qualified professionals, which will assist those eligible for the Department services in gaining access to needed medical, social, educational, and other services which are solely funded by the Department.

F. State Funded Community Supports: An array of services offered by the Department to those who are eligible for the Department services, but are not eligible for the Department operated Medicaid Home and Community Based Services Waiver which are solely funded by the Department.

G. State Funded Follow Along: Employment focused services offered by The Department to those who are eligible for the Department services, who have secured individual integrated employment in the community in collaboration with the South Carolina Vocational Rehabilitation Department which are solely funded by the Department.

H. State Funded Residential Habilitation: Services which includes the care, skills training, supervision and support provided to a person eligible for services in a noninstitutionalized setting. The degree and type of care, supervision, skills training and support will be based on the person's needs and preferences which are solely funded by the Department.

I. State Funded Respite: Services provided to participants unable to care for themselves; furnished on a short-term basis because of the absence or need for relief of those individuals normally providing the care which are solely funded by the Department.

#### 88-710. Appeals.

A. Decisions that may be appealed include, but are not limited to:

(1) Eligibility for the Department services.

(2) Denial, suspension, reduction or termination of a service solely funded by the Department to include but not limited to:

(a) State Funded Community Supports

(b) State Funded Follow-Along

(c) State Funded Case Management

(d) State Funded Respite

(e) State Funded Residential Habilitation

(f) Family Support Services

#### 88-715. Appeal Procedures.

A. Applicants Seeking Eligibility for the Department Services

(1) Step 1: Written Appeal: When an appeal is desired by the applicant, a signed and dated written appeal of the denial must be made within 30 business days of the date of the eligibility decision. The appeal must state the reason(s) the denial was in error, and include any additional supporting information. The appeal shall be made by letter: South Carolina Department of Disabilities and Special Needs- Appeals, 3440 Harden Street Extension, Columbia, South Carolina 29203 or email: [appeals@ddsn.sc.gov](mailto:appeals@ddsn.sc.gov) sent to the State Director of The Department. Reasonable accommodations to assist with communication will be provided upon request.

(2) Step 2: Review: Upon receipt of the appeal, all information shall be reviewed by the State Director using the eligibility criteria as set forth in the Department's regulation addressing "Eligibility". If the State Director determines new evaluation data is needed, no decision shall be made until this data is received. The applicant shall be notified that the new evaluation is needed within 30 business days of receipt of the written appeal.

(3) Step 3: Decision: A written decision shall be provided to the applicant within 30 business days of receipt of the written appeal or receipt of the new evaluation data. In accordance with S.C. Code §44-20 430, the decision of the State Director is final.

B. Denial, Suspension, Reduction or Termination of a service solely funded by the Department.

(1) Step 1: Written Appeal: When an appeal is desired by the person eligible for services from the Department, a signed and dated written appeal of a decision to deny, suspend, reduce or terminate a service solely funded by The Department shall be made within 30 business days of the notification of the decision. The appeal shall state the reason(s) the denial/suspension/reduction/termination was in error including any additional supporting information. The appeal shall be made by letter: South Carolina Department of Disabilities and Special Needs- Appeals, 3440 Harden Street Extension, Columbia, South Carolina 29203 or email: [appeals@ddsn.sc.gov](mailto:appeals@ddsn.sc.gov) sent to the State Director of The Department. Reasonable accommodations to assist with communication will be provided upon request.

(2) Step 2: Review: Upon receipt of the appeal, all available information shall be reviewed by the State Director.

(3) Step 3: Decision: A written decision shall be provided to the person eligible for services within 30 business days of receipt of the written appeal. The decision of the State Director shall be final.