Office of Administrative Hearings (OAH)	Transmittal Number: 97-23
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Distribution:	
ALB OAH Staff [x] UPS ALJs/ [x] Upstate LDSS [SUP ALJs [x]	Subject: Changes to Report FH-019, Fair Hearing Data Sheet
NYC OAH Staff [x] NYC ALJs/ [x] NYC Agencies [1

Effective May, 1997, Report FH-019, Fair Hearing Data Sheet, was changed to add codes that will signify that an issue is being remanded to the agency. The proper use of Remand Codes 41-47 will provide the opportunity for Litigation staff to obtain data, specifically on issue codes 900, 997, and 999, by accessing the appropriate demand reports.

The changes on the Fair Hearing Data Sheet appear under the column previously entitled "Reversal codes (01-09) = R. The column is now entitled "Reversal (01-09)/Remand (41-47) Codes = R". Each code has two sets of numbers, one that begins with a "0" to be used with reversals, and another that begins with a "4" to be used with remands. In addition, Reversal Code 08 ("Remanded to Agency for New/Supplemental Determination") has been eliminated.

The revised area of the form is as follows:

REVERSAL (01-09)/REMAND (41-47)CODES = R

- 01/41 AGENCY NOTICE DEFECTIVE
- 02/42 AGENCY VERIFICATION AND/OR ELIGIBILITY DETERMINATION PROCEDURE DEFECTIVE
- 03/43 AGENCY HEARING PRESENTATION DEFICIENT (INSUFFICIENT DOCUMENTS, TESTIMONY ETC. BUT ALL OR PART OF THE CASE RECORD PRESENT)
- 04/44 AGENCY EITHER MISAPPLIED LAW, REGULATION OR POLICY OR THERE WAS NO AUTHORITY FOR THEIR ACTION
- 05/45 AGENCY FAILED TO PRODUCE APPELL. CASE RECORD
- 06/46 FACTUAL ISSUES FOUND IN FAVOR OF APPELLANT
- 07/47 AGENCY FAILURE TO SEND REQUESTED DOCUMENTS TO APPELLANT

By choosing, as an example, "05" for a discontinuance or reduction where the agency is being reversed for "failing to produce the appellant case record" and "45" when the agency failed to produce the appellant case record but the issue is an adequacy issue which must be remanded to the agency for appropriate action, it will be easy to obtain reports which will clearly distinguish remanded cases from all others. In all other respects, Form FH-019 remains the same.

If you have any questions regarding this transmittal, please contact your supervisor or Susan Fiehl at (518) 473-4779 or via e-mail 90J029.

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