

Office of Administrative Hearings (OAH) Procedures Transmittal			Transmittal Number: 05-21
Distribution:			Date: July 22, 2005
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ALB OAH Staff <input checked="" type="checkbox"/>	UPS ALJs <input checked="" type="checkbox"/>	Upstate LDSS <input type="checkbox"/>	Subject: New Issue Code 920 Requests to Reopen FH Claiming Failure of HRA to Implement MDR Agreement Pursuant to <u>Khana v. Turner</u> Litigation
	SUP ALJs <input checked="" type="checkbox"/>		
NYC OAH Staff <input checked="" type="checkbox"/>	NYC ALJs <input checked="" type="checkbox"/>	NYC Agencies <input checked="" type="checkbox"/>	
	SUP ALJs <input checked="" type="checkbox"/>		

The following new issue code has been created pursuant to requirements of the settlement in the Matter of Khana v. Turner:

Issue Code 920 (Reopen FH—Claim Failure HRA to Implement MDR Agreement)

This code is to be used for any request to reopen a hearing when the appellant or representative claims to have either withdrawn or defaulted a hearing based on agreements made by the Human Resources Administration (HRA) during Mandatory Dispute Resolution (MDR) which the agency allegedly failed to implement. Reopened hearings will retain in the Fair Hearing Information System (FHIS) the original fair hearing number. All such requests must be reopened rather than reopen denied as they cannot be time-barred.

Issue Code 920 is being added to these requests solely as a tracking code. Therefore, the Action code for Issue Code 920 is to be noted as INAD and the Aid Status code is to be noted as NA. The original issue code(s), category(ies) and aid status(es) remain unchanged.

Agency: Any NYC Agency
Category: Any Category (maintain the category of the original FH)
Action: **INAD**
Aid Status: **NA**
Issue Code: **920**

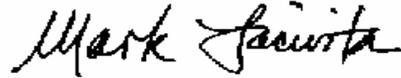
Since Issue Code 920 must necessarily be assigned at the time of the reopening, the addition of 920 by Communication Intake Unit (CIU) staff at that time will be critical to the accurate tracking of these cases. Under the settlement in the Khana litigation, the Office of Administrative Hearings must report as follows:

- 1). For a period of one year from the date of Court approval of the Stipulation and Order of Settlement (July 7, 2005), State Defendant agrees to recalendar fair hearings for current public assistance recipients who withdrew fair hearings at MDR interviews convened between the inception of MDR and January 22, 2001 and hereinafter contact State Defendant to request such recalendaring.

2). For a total period of nine months from the date of Court approval of the Stipulation and Order of Settlement (July 7, 2005), State Defendant will provide to plaintiffs all state fair hearing decisions issued during each three-month period that involve Fair Hearing Information System Code 920 - "REOPEN FH - CLAIM FAILURE HRA TO IMPLEMENT MDR AGREEMENT" to those cases where a fair hearing is reopened on the basis that an appellant claims that he or she withdrew or defaulted at a scheduled fair hearing as the result of representations made by the City defendant at an MDR interview. This includes those cases described in paragraph #1.

To reiterate, for all of these cases, the timeliness provisions of 18 NYCRR 358-5.5(a) for requesting reopening of a defaulted hearing do not apply.

If there are any questions with respect to this transmittal, you may contact your supervisor or Susan Fiehl at (518) 473-4779 or via email susan.fiehl@otda.state.ny.us.



Mark Lacivita, Director of Administration
Office of Administrative Hearings