

ATTACHMENT A

PASARR APPEAL PROCEDURES

A. General Provisions

An individual who is adversely affected by any PASARR determination made by the Office of Mental Retardation in the context of either a preadmission screening or an annual resident review has the right to a fair hearing in accordance with the following procedures.

These appeal procedures only apply to Regional Office of Mental Retardation determination notices which indicate that:

- the individual has mental retardation based on a level II (Evaluation Phase) review (Level I determinations are not subject to appeal).
- the individual seeking admission into a nursing facility is not eligible for nursing facility services.
- the individual is not considered appropriate for continued placement in a nursing facility.
- the individual does not need specialized services.

Individuals who reside in a nursing facility have the right to refuse specialized services. Individuals who refuse specialized services will be expected to indicate their choice as part of the nursing facility's record.

B. Individual Representation

Unless the individual is adjudicated incompetent and has had a guardian appointed, the individual has the right to represent him/herself or to select another representative during the fair hearing process. The person representing the individual may be a friend, advocate, or family member.

The representative selected by the individual may be free legal services or the individual's personal attorney. The Regional Office of Mental Retardation will inform the individual of the appropriate Office to be contacted for free legal services as part of its determination notice.

Individuals adjudicated incompetent shall be represented by their guardian or a person the guardian selects as the representative.

C. Procedures of Notification and Appeals

The following procedures are followed in regard to notification and appeals:

1. The individual is notified of his/her right to appeal by the Regional Office of Mental Retardation as part of its determination letter.

2. The individual guardian or representative files a completed request for a fair hearing. The request must be forwarded within 30 calendar days of the date of the Regional Office of Mental Retardation determination notice to:

The Office of Hearings and Appeals
Department of Public Welfare
PO Box 2675
Harrisburg, Pennsylvania 17105-2675

3. The Office of Hearings and Appeals holds a telephone or face-to-face hearing for the individual. The individual, guardian, or representative may choose which type of hearing is held, and indicate if the individual needs a translator or other accommodations.

4. The Office of Hearings and Appeals will make a decision regarding the Appeal and will forward the notice of its decision to the individual. The decision of the Office of Hearings and Appeals is subject to Appeal to the Secretary of Public Welfare or through Commonwealth Court in accordance with stipulations included in the decision letter.