SCOPE:

County MH/MR Administrators
Base Service Unit Directors
Community Residential MR Facility Directors
Family Living Providers
Adult Training Facility Directors
Vocational Facility Directors
Unlicensed Providers

PURPOSE:

The purpose of this Bulletin is to clarify the procedures for individual and provider appeals. This Bulletin covers provider appeals under Chapter 4300 regulations and the Local Agency Law, individual appeals for non-waiver recipients, and individual appeals for waiver recipients. ICF/MR provider appeals and OBRA appeals are not included in this Bulletin. Provider appeals concerning individuals enrolled in the Infants, Toddlers, and Families waiver are also not included in this Bulletin.

BACKGROUND:

Questions have been raised from individuals and providers regarding what types of appeals are resolved locally and what types of appeals are directed to the Department of Public Welfare’s Bureau of Hearings and Appeals (BHA).

In addition to this Bulletin, there is complementary information concerning individual appeals in Mental Retardation Bulletin 00-00-09 entitled “Service Preference in Medicaid Waivers for Individuals with Mental Retardation.”
DISCUSSION:

PROVIDER APPEALS

Chapter 4300 Appeals (non-waiver appeals, Bureau of Hearings and Appeals not involved)

Title 55 Pa. Code Chapter 4300 regulations establish the right to appeal for provider agencies. Section 4300.139(d) states: “Counties shall establish a procedure to provide contract agencies with an opportunity to be heard by the county mental health and mental retardation board, or a committee thereof, regarding contract disputes arising under this chapter. The purpose shall be for the board to hear the issues and arguments involved in the dispute and develop recommendations to the appropriate county authority.”

If the provider is not satisfied with the decision rendered by the county authority, the provider has further appeal rights to county courts based on the Local Agency Law (2 Pa. C.S. §§551-555). The provider has to appeal to the board or committee before pursuing the appeal through the county courts.

The Local Agency Law states that any party may be represented before a local agency; that any party shall have reasonable notice of a hearing and an opportunity to be heard; that relevant evidence may be received along with the opportunity for reasonable examination and cross-examination; and that “all adjudications of a local agency shall be in writing, shall contain findings and reasons for the adjudication, and shall be served upon all parties or their counsel personally, or by mail.”

Consequently, provider appeals that are primarily related to rate and county contractual issues are initiated and completed in accordance with Chapter 4300 regulations and the Local Agency Law.

INDIVIDUAL APPEALS

Appeals for Non-Waiver Recipients (Bureau of Hearings and Appeals not involved)

Nason v. Commonwealth, 533 A.2d 435 (Pa. 1987), states that non-waiver applicants and recipients have the right to appeal under the Local Agency Law when services are denied, reduced, or terminated. The appeal process is the same as listed above in the “Provider Appeals” section. The Bureau of Hearings and Appeals lacks jurisdiction to hear matters covered under Local Agency Law. See Chartiers v. DPW, 696 A.2d 244 (Pa. Commonwealth 1997). Exception: 55 Pa. Code 6210.50 and 6210.52 state that Medical Assistance recipients may appeal level of care decisions related to ICF/MR to the Bureau of Hearings and Appeals in accordance with 55 Pa. Code 275.

When the county determines that an applicant for or recipient of private or public ICF/MR services is not eligible for those services, the individual can appeal to the Bureau of Hearings and Appeals. This is in accordance with Mental Retardation Bulletin 00-02-13 entitled “Need for ICF/MR Level of Care” (see page 6).

Appeals for Waiver Recipients

The individual’s right to appeal a denial, reduction, or termination of services is detailed in Mental Retardation Bulletin 00-00-09 entitled “Service Preference in Medicaid Waivers for Individuals with Mental Retardation” (see page 10). The County MH/MR Program must send a written notice to the individual before services are denied, reduced, or terminated. The individual may then try to resolve an issue through meeting with County officials, through the mediation process, or through a fair hearing conducted by the Bureau of Hearings and Appeals. The mediation process is completed through an independent entity that is currently the Office for Dispute Resolution in Harrisburg. Mediation is described in detail in Mental
Regarding appeals sent to the Bureau of Hearings and Appeals for individuals, 55 Pa. Code §275.4(a)(2) states that individuals must file an appeal with the agency that made the determination being questioned, and §275.1(a)(3) specifically includes social service agencies: “the term Department includes, in addition to County Assistance Offices, agencies which administer or provide social services under contractual agreement with the Department.” This includes the County MH/MR Program.

The County MH/MR Program is responsible for ensuring that individuals receive whatever help is needed to fill out and file the appeal form [see 55 Pa. Code §275.4(a)(1)], and individual appeals will be processed in accordance with the following guidelines:

- Appeals sent to the Bureau of Hearings and Appeals must be initially filed with the County MH/MR Administrator or designee in accordance with 55 Pa Code §275.4 (a)(2)(i) and (vii). The appeal must be received by the County MH/MR Program within 30 days from the date of the written notice. A postmark is not adequate. It must be received by the deadline date. If the deadline falls on a holiday or weekend, the appeal will be considered timely if it is received on the next business day. When the appeal is forwarded to the Bureau of Hearings and Appeals, the County MH/MR Program should include the envelope in which the appeal was received.

- An individual has the right to appeal a County MH/MR Program’s failure to act. Regulations at 55 Pa. Code §275.1(a)(i)(E) state that an individual may appeal an “undue delay in making a payment adjustment or acting upon a request or application.”

- An action where a notice was not issued and not required must be appealed within 60 days from the date of the action or failure to act (see 55 Pa. Code §275.3(b)(2). If a notice was required but not issued by the agency, an appeal may be made up to six months from the date of the action or failure to act. In 55 Pa. Code §275.3(b)(3), it states:

> “When the county office, administering agency or service provider fails to send written notice which was required of the action and of the right of appeal or because of administrative error, ongoing delay or failure to take corrective action that should have been taken, the time limit in paragraphs (2) or (4) will not apply. For a period of six months from the date of the action or failure to act, the client shall have the right of appeal and shall exercise that right in writing. After six months from the date of the county office, administering agency or service provider action or failure to act, a written appeal may be filed with the agency provided that the client signs an affidavit stating the following:

  o The client did not know of his right of appeal or believed the problem was being resolved administratively.

  o The client actually believes the county office erred in its actions.

  o The appeal is being made in good faith. Appeals which do not meet the time limitations and requirements set forth in this paragraph and in paragraphs (1) and (2) will be dismissed without a hearing.
○ An appeal request received by the agency prior to March 1, 1979, will be controlled by the regulation in effect at the time the request was received by the agency.”

• In order for the Bureau of Hearings and Appeals to efficiently process appeals, the appeal form (MR 458) must contain the following information at a minimum: Individual’s name and signature (if the individual is unable to write, the representative’s signature will suffice), current mailing address and phone number; name of individual’s representative and the representative’s signature, the representative’s current mailing address and phone number (if applicable); the relationship of the representative to the individual (i.e., provider, parent, attorney, etc.); and statements to clearly indicate the reason for the appeal and the relief being sought. A copy of the written notice that was issued by the County MH/MR Program notifying the individual of the decision or action satisfies the requirement of indicating the reason for the appeal. Again, it is the responsibility of the County MH/MR Program to ensure that the appeal form is filled out correctly.

• The appeal form must also indicate whether an interpreter is needed to provide information in a language other than English and whether the appeal form needs to be translated into a language other than English. These requirements are in accordance with Title VI of the 1964 Civil Rights Act that pertains to individuals with Limited English Proficiency (LEP). The County MH/MR Program will assess whether the individual and the individual’s representative are proficient in the English language or will require an interpreter or translated documents.

• An indication of reasonable special accommodations for hearing impairment or other disability is required in order to participate in the hearing, e.g., American Sign Language interpreters must be provided if requested, text telephone relay services due to hearing impairment or large print documents due to visual impairments, etc.

• The County MH/MR Program must date-stamp the appeal upon receipt and forward it to the Bureau of Hearings and Appeals within three working days of the date received in accordance with 55 Pa. Code §275.4(a) (2)(vii). The County MH/MR Program will send a copy of the appeal to the appropriate Regional Office of Mental Retardation and to the individual.

• When submitting the appeal to the Bureau of Hearings and Appeals, the County MH/MR Program must include a copy of the written notice that was issued to the individual regarding the County’s decision on the issue being appealed. Failure to include the written notice will not necessarily delay or negate the appeal.

• The County MH/MR Program must also complete the Bureau of Hearings and Appeals cover sheet and attach it to the appeal because the hearing may not be scheduled if the cover sheet is not completed. In addition to the individual’s information and the individual’s representative information, the cover sheet must indicate the name, mailing address and telephone number of the County MH/MR Program representative who will attend the hearing. If a telephone hearing was selected by the individual, the County MH/MR Program representative’s telephone number listed on the Bureau of Hearings and Appeals cover sheet will be the telephone number where the County representative will be called for the telephone hearing unless otherwise indicated on the cover sheet. The County MH/MR Program will send a copy of the completed Bureau of Hearings and Appeals Agency Appeal Cover Sheet to the appropriate Regional Office of Mental Retardation and to the state-wide Waiver Coordinator in the Bureau of Community Programs.
• The County MH/MR Program must offer a pre-hearing conference to the individual in accordance with 55 Pa. Code §275.4 (a)(3)(ii). The pre-hearing conference is optional for the individual and does not involve the Bureau of Hearings and Appeals. Neither party is required to change its position at the pre-hearing conference, but it gives the parties an opportunity to settle the matter prior to the hearing. If the issue is resolved prior to the Bureau of Hearings and Appeals hearing, then the Bureau of Hearings and Appeals must be notified in writing by the County MH/MR Program.

• A representative who signs an appeal on behalf of an individual or represents an individual at a hearing may be required to show proof of authorization by the individual to act as the individual’s representative. An exception is made if the representative is an attorney retained by the individual or if the individual is a minor child or an incompetent person represented by a family member/guardian, advocate, or friend.

• The individual may file an oral appeal by telephone or in person. The County MH/MR Program that receives the appeal should document the appeal and forward the documentation to the Bureau of Hearings and Appeals. The individual must follow-up an oral appeal with a written appeal within three days; however, the County MH/MR Program should forward the documentation of the appeal to the Bureau of Hearings and Appeals regardless of whether the individual has submitted a written appeal. It is the County MH/MR Program’s responsibility to ensure the individual gets necessary assistance to file the written appeal.

• If the County MH/MR Program receives a withdrawal from the individual prior to the hearing, the written withdrawal must be mailed or faxed to the Bureau of Hearings and Appeals, and a copy must be sent to the appropriate Regional Office of Mental Retardation.

• All withdrawals must be written and signed by the individual. The County MH/MR Program cannot withdraw the appeal, even if it rescinds the action.

• When a hearing date is scheduled, the Bureau of Hearings and Appeals will send a copy of the “Notice of Hearing Date and Time” form to the individual, the County MH/MR Program, and the appropriate Regional Office of Mental Retardation.

• All questions regarding the hearing process (see 55 Pa. Code §275.4) must be directed to the Bureau of Hearings and Appeals site administrator at the appropriate Bureau of Hearings and Appeals regional location as follows:


Bureau of Hearings and Appeals
2330 Vartan Way, 2nd Floor
Harrisburg, PA 17110
Phone: (717) 783-3950
Fax: (717) 772-2769
Southeast Region: Bucks, Chester, Delaware, Montgomery, Philadelphia

Bureau of Hearings and Appeals
1400 Spring Garden Street
Room 1608
Philadelphia, PA 19130-9943
Phone: (215) 560-2145
Fax: (215) 560-2378


Bureau of Hearings and Appeals
Two Gateway Center
Suite 1125
603 Stanwix Street
Pittsburgh, PA 15222
Phone: (412) 565-5213
Fax: (412) 565-5514

- Failure to follow the regulatory procedures can result in an appeal being delayed or denied.

- Final administrative action must be taken within 90 days from the date of an appeal in accordance with 55 Pa. Code §275.4(b)(1).

Reconsideration

Individuals or agencies who do not agree with a decision from the Bureau of Hearings and Appeals may request Reconsideration from the Secretary of Public Welfare in accordance with 1 Pa. Code §35.241 and 55 Pa. Code §275.4(h)(4)(ii), and/or petition the Commonwealth Court as per 42 Pa. C.S.A. §763.

A request for Reconsideration must be filed within 15 days of receiving a decision from the Bureau of Hearings and Appeals. The Reconsideration request must detail the reasons for disagreeing with the decision, and it must be sent to the Bureau of Hearings and Appeals which will forward it to the Secretary. The Secretary can reverse, remand, or affirm the decision made by the Bureau of Hearings and Appeals.

Further information on Reconsideration and other regulations noted in this Bulletin can be found at the Pennsylvania Code website at [www.pacode.com](http://www.pacode.com). Click on “55 Public Welfare” and go to Chapter 275 entitled “Appeal and Fair Hearing and Administrative Disqualification Hearings.”
FAIR HEARING REQUEST FORM
HOME AND COMMUNITY-BASED SERVICES
FOR INDIVIDUALS WITH MENTAL RETARDATION

TO: DEPARTMENT OF PUBLIC WELFARE
BUREAU OF HEARINGS AND APPEALS
DATE ____________
(THE COUNTY MH/MR PROGRAM WILL FORWARD THIS APPEAL TO THE APPROPRIATE
BUREAU OF HEARINGS AND APPEALS OFFICE LISTED ON PAGES 3-4)

FROM: NAME OF APPELLANT _________________________________________
DAY TELEPHONE NUMBER __________
MAILING ADDRESS ______________________________________________________________________________

SIGNATURES: APPELLANT ___________________________________________
WITNESS (IF APPELLANT MAKES MARK) ________________________________________________
WITNESS (IF APPELLANT MAKES MARK) ________________________________________________

I HEREBY REQUEST A FAIR HEARING BEFORE THE DEPARTMENT OF PUBLIC WELFARE
BUREAU OF HEARINGS AND APPEALS. I AM REQUESTING THIS APPEAL ON BEHALF OF
THE FOLLOWING INDIVIDUAL RECEIVING HOME AND COMMUNITY BASED SERVICES
FUNDED UNDER A MEDICAID WAIVER FOR INDIVIDUALS WITH MENTAL RETARDATION.

NAME OF INDIVIDUAL RECEIVING SERVICES _____________________________________________
MEDICAID ACCESS NUMBER OF INDIVIDUAL RECEIVING SERVICES ___________________________

I HEREBY REQUEST THIS APPEAL BASED ON THE FOLLOWING ACTIONS AND I
REQUEST THE FOLLOWING REMEDIES (EXPLAIN)
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________

NAME OF INDIVIDUAL’S REPRESENTATIVE (IF APPLICABLE) __________________________________
NAME OF INDIVIDUAL’S REPRESENTATIVE (IF APPLICABLE) __________________________________
DAY TELEPHONE NUMBER _________________________________
MAILING ADDRESS ______________________________________________________________________________

PLEASE CHECK ONE OF THE ITEMS BELOW TO INDICATE THE TYPE OF HEARING YOU WANT:

_____ I WANT A TELEPHONE HEARING
_____ I WANT A FACE TO FACE HEARING

PLEASE INDICATE BELOW WHAT INFORMATION IS NEEDED IN A LANGUAGE OTHER
THAN ENGLISH, WHAT TYPE OF INTERPRETER, COMMUNICATIONS ASSISTANCE OR
ACCOMMODATION YOU NEED, IF ANY, AT THE HEARING:
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________

CC: COUNTY MENTAL HEALTH/MENTAL RETARDATION PROGRAM
REGIONAL PROGRAM MANAGER, OFFICE OF MENTAL RETARDATION
WAIVER COORDINATOR, CENTRAL OFFICE OF MENTAL RETARDATION, BUREAU OF COMMUNITY PROGRAMS
HOME AND COMMUNITY-BASED SERVICES
FOR INDIVIDUALS WITH MENTAL RETARDATION

INSTRUCTIONS AND NOTICE OF RIGHT TO FAIR HEARING

IF YOU ARE APPLYING FOR WAIVER SERVICES OR AN ICF/MR LEVEL OF CARE, OR IF YOU OBJECT TO AN ACTION TAKEN AFFECTING YOUR CLAIM FOR WAIVER SERVICES, YOU HAVE THE RIGHT TO A COUNTY CONFERENCE OR FAIR HEARING, OR BOTH IF:

- YOU OR YOUR LEGAL REPRESENTATIVE HAVE NOT BEEN INFORMED OF FEASIBLE HOME AND COMMUNITY-BASED SERVICES, INCLUDING SERVICES FUNDED UNDER THE WAIVER, AS AN ALTERNATIVE TO CARE IN AN ICF/MR (INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH MENTAL RETARDATION), AND ABOUT SERVICES IN AN ICF/MR.

- YOU OR YOUR LEGAL REPRESENTATIVE HAVE NOT BEEN OFFERED THE PREFERENCE OF HOME AND COMMUNITY-BASED SERVICES FUNDED UNDER THE WAIVER AS AN ALTERNATIVE TO CARE IN AN ICF/MR.

- YOU OR YOUR REPRESENTATIVE HAVE BEEN DENIED YOUR PREFERENCE TO RECEIVE WAIVER-FUNDED HOME AND COMMUNITY-BASED SERVICES OR ICF/MR.

- YOUR CLAIM FOR SERVICES IS NOT ACTED UPON WITH REASONABLE PROMPTNESS.

- YOU OR YOUR LEGAL REPRESENTATIVE HAVE BEEN DENIED YOUR CHOICE OF (a) HOME AND COMMUNITY-BASED SERVICES FUNDED UNDER THE WAIVER OR (b) QUALIFIED PROVIDERS OF WAIVER FUNDED OR ICF/MR SERVICES.

- WAIVER-FUNDED SERVICES IN YOUR INDIVIDUAL PROGRAM PLAN WERE REDUCED, TERMINATED OR SUSPENDED WITHOUT YOUR CONSENT.

YOU ALSO HAVE THE RIGHT TO APPEAL ANY ACTION OR FAILURE TO ACT AND TO HAVE A HEARING IF YOU ARE DISSATISFIED WITH ANY DECISION TO REFUSE, SUSPEND, REDUCE OR TERMINATE MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES. HOWEVER, YOU WILL NOT BE GRANTED A HEARING IF THE ACTION TAKEN WAS SOLELY CAUSED BY STATE OR FEDERAL LAW OR REGULATIONS REQUIRING A CHANGE IN THE TYPE OF SERVICES AVAILABLE TO YOU.

IF YOU WANT A CONFERENCE TO DISCUSS YOUR CONCERNS OR TO HAVE AN INDEPENDENT MEDIATION, PLEASE WRITE OR PHONE YOUR COUNTY MH/MR PROGRAM DESIGNEE.

YOUR COUNTY DESIGNEE WILL ALSO HELP IN FILING FOR AN APPEAL BEFORE THE DEPARTMENT OF PUBLIC WELFARE, BUREAU OF HEARINGS AND APPEALS, IF YOU SO REQUEST.

YOUR COUNTY DESIGNEE IS __________________________________________________________

NAME

THIS COUNTY DESIGNEE CAN BE REACHED AT THE FOLLOWING ADDRESS AND TELEPHONE NUMBER:

ADDRESS: _______________________________________________________________________________________________
_____________________________________________________________________________________________

TELEPHONE NUMBER: ________________________________
IF YOU CHOOSE TO HAVE A CONFERENCE OR MEDIATION WITH THE COUNTY MH/MR PROGRAM, YOU MAY DO SO WITHOUT FORFEITING YOUR APPEAL RIGHTS IF YOU CONTACT THE COUNTY MH/MR PROGRAM DESIGNEE WITHIN 10 DAYS OF YOUR NOTIFICATION OF THE CONTESTED ACTION. YOU DO NOT HAVE TO HAVE A COUNTY CONFERENCE OR MEDIATION IF YOU WANT TO GO DIRECTLY TO A DEPARTMENT OF PUBLIC WELFARE HEARING OFFICER TO HAVE YOUR APPEAL HEARD.

IF YOU CHOOSE TO HAVE A COUNTY CONFERENCE OR MEDIATION, SERVICES SHOULD NOT CHANGE UNTIL A DECISION ON THE CONFERENCE OR INDEPENDENT MEDIATION IS MADE, UNLESS THAT CHANGE IS BASED SOLELY ON FEDERAL OR STATE LAW, REGULATION OR POLICY.

IF YOU ARE NOT SATISFIED WITH THE RESULTS OF THE CONFERENCE OR MEDIATION, YOU MAY APPEAL TO THE DEPARTMENT OF PUBLIC WELFARE, BUREAU OF HEARINGS AND APPEALS, WITHIN 30 DAYS OF BEING NOTIFIED OF THE COUNTY’S DECISION. YOUR APPEAL MUST BE SENT FIRST TO THE COUNTY MH/MR PROGRAM, AND THEY WILL FORWARD IT TO THE BUREAU OF HEARINGS AND APPEALS. IF YOU ARE APPEALING A CHANGE IN SERVICES WHICH ARE ALREADY PROVIDED TO YOU AND IF YOU APPEAL TO THE DEPARTMENT WITHIN 10 DAYS OF THE COUNTY’S DECISION, SERVICES WILL GENERALLY CONTINUE WITHOUT CHANGE UNTIL THE DEPARTMENT’S HEARING OFFICER MAKES HIS/HER DECISION. SERVICES WILL NOT CONTINUE IF THE ACTION IS BASED SOLELY ON A CHANGE IN FEDERAL OR STATE REQUIREMENTS.

IF YOU DECIDE TO APPEAL DIRECTLY TO THE DEPARTMENT OF PUBLIC WELFARE, BUREAU OF HEARINGS AND APPEALS, YOU MUST WRITE TO THE DEPARTMENT’S BUREAU OF HEARINGS AND APPEALS WITHIN 30 DAYS OF THE DECISION OR ACTION BEING TAKEN WHICH YOU WANT TO APPEAL USING FORM MR 458. THE APPEAL MUST FIRST BE SENT TO THE COUNTY MH/MR PROGRAM, AND THEY WILL FORWARD IT TO THE BUREAU OF HEARINGS AND APPEALS.

IF YOU ARE ALREADY RECEIVING WAIVER SERVICES, WAIVER SERVICES WILL CONTINUE WITHOUT CHANGE UNTIL THE FAIR HEARING DECISION IS MADE IF:

- YOU ARE APPEALING A DECISION TO REDUCE, TERMINATE OR SUSPEND WAIVER FUNDED SERVICES THAT YOU WERE AUTHORIZED TO RECEIVE IN YOUR INDIVIDUAL PROGRAM PLAN.

- YOU FILE THE APPEAL WITHIN 10 DAYS OF BEING INFORMED OF THE COUNTY’S DECISION.

- THE ACTION IS NOT DONE SOLELY TO COMPLY WITH FEDERAL OR STATE LAW, REGULATION OR POLICY.

THE DEPARTMENT OF PUBLIC WELFARE, BUREAU OF HEARINGS AND APPEALS TELEPHONE NUMBERS AND ADDRESSES FOLLOW:

1. BUREAU OF HEARINGS AND APPEALS
   HEADQUARTERS:
   Bureau of Hearings and Appeals
   2330 Vartan Way, Second Floor
   Harrisburg, PA 17110
   Phone: (717) 772-2769

2. BUREAU OF HEARINGS AND APPEALS
   CENTRAL AND NORTHEAST REGIONS
   Bureau of Hearings and Appeals
   2330 Vartan Way
   Harrisburg, PA 17110
   Phone: (717) 783-3950

3. BUREAU OF HEARINGS AND APPEALS
   SOUTHEAST REGION
   Bureau of Hearings and Appeals
   1400 Spring Garden Street, Room 1608
   Philadelphia, PA 19130-9943
   Phone: (215) 560-2378.

4. BUREAU OF HEARINGS AND APPEALS
   WESTERN REGION
   Bureau of Hearings and Appeals
   Two Gateway Center, Suite 1125
   603 Stanwix Street
   Pittsburgh, PA 15222
   Phone: (412) 565-5213
AT THE HEARING, YOU CAN PRESENT TO THE HEARING OFFICER THE REASONS YOU DISAGREE WITH THE ACTION OR DECISION AND PRESENT EVIDENCE AND/OR WITNESSES TO SUPPORT YOUR CASE. YOU HAVE THE RIGHT TO REPRESENT YOURSELF OR TO HAVE SOMEONE ELSE REPRESENT YOU (SEE ATTACHED LIST OF LEGAL AID OFFICES).

IF YOU NEED LEGAL COUNSEL, THE COUNTY MH/MR CONTACT PERSON WILL REFER YOU TO FREE COUNSEL AND ADVOCATES ON REQUEST.

IF YOU SPEAK A LANGUAGE OTHER THAN ENGLISH OR HAVE PROBLEMS IN COMMUNICATING AND NEED AN INTERPRETER, YOU MAY BRING AN INTERPRETER TO THE HEARING. IF YOU ARE UNABLE TO PROVIDE YOUR OWN INTERPRETER, YOU MAY REQUEST ASSISTANCE ON THE APPEAL REQUEST FORM AND/OR BY CONTACTING THE COUNTY CONTACT PERSON OR THE BUREAU OF HEARINGS AND APPEALS. YOU MUST REQUEST THIS IN ADVANCE OF THE HEARING.

IF YOU NEED SOME OTHER ACCOMMODATION TO ATTEND OR PARTICIPATE IN THE HEARING, YOU MAY REQUEST ASSISTANCE IN OBTAINING SUCH AN ACCOMMODATION, BUT YOU MUST MAKE THIS REQUEST IN ADVANCE OF THE HEARING. THESE REQUESTS MAY BE MADE BY CONTACTING YOUR COUNTY DESIGNEE.

THE BUREAU OF HEARINGS AND APPEALS WILL HOLD A HEARING FOR YOU EITHER OVER THE TELEPHONE OR FACE-TO-FACE. YOU MAY CHOOSE WHICH TYPE YOU WANT. IF YOU DO NOT HAVE A PHONE, YOU CAN USE THE PHONE AT THE COUNTY MH/MR PROGRAM OR THE PHONE OF A FRIEND, RELATIVE OR NEIGHBOR. INDICATE WHETHER YOU WANT A TELEPHONE OR FACE-TO-FACE HEARING ON THE ATTACHED APPEAL REQUEST FORM.

THE ATTACHED FAIR HEARING REQUEST FORM SHOULD BE USED TO FILE YOUR APPEAL. YOUR COUNTY DESIGNEE OR REPRESENTATIVE MAY HELP YOU COMPLETE AND MAIL THIS FORM TO THE BUREAU OF HEARINGS AND APPEALS.

YOUR COUNTY DESIGNEE WILL COPY YOUR FAIR HEARING REQUEST FORM AND SEND A COPY TO BOTH THE REGIONAL AND STATE OFFICES OF MENTAL RETARDATION. THE STATE AND REGIONAL OFFICES OF MENTAL RETARDATION ADDRESSES ARE AS FOLLOWS:

1. **SE REGION OFFICE OF MENTAL RETARDATION**
   1400 SPRING GARDEN STREET
   PHILADELPHIA, PA 19130-4064

2. **NE REGIONAL OFFICE OF MENTAL RETARDATION**
   100 LACKAWANNA AVENUE,
   SCRANTON, PA 18503

3. **CENTRAL REGION OFFICE OF MENTAL RETARDATION**
   ROOM 430, WILLOW OAK BUILDING
   HARRISBURG STATE HOSPITAL
   HARRISBURG, PA 17120

4. **WESTERN REGION OFFICE OF MENTAL RETARDATION**
   300 LIBERTY AVENUE,
   PITTSBURGH, PA 15222

5. **OFFICE OF MENTAL RETARDATION**
   ROOM 512 HEALTH AND WELFARE BUILDING
   P.O. BOX 2675
   HARRISBURG, PA 17105
PART I – CASE RECORD INFORMATION - BHA USE ONLY
County # Welfare Case Record Number or Pseudo Number Appeal No.

PART II – AGENCY INFORMATION - TO BE COMPLETED BY THE AGENCY
Agency Contact Person Name | Last | First | MI
Agency Contact Person Title
Agency Address
City State Zip Code -
Agency Contact Telephone No. ( ) -

PART III – APPELLANT INFORMATION - TO BE COMPLETED BY THE AGENCY
Appellant Name Last First MI
Sex Facility (if applicable)
Address
City State Zip Code -
Appellant Telephone No. ( ) -

PART IV – APPELLANT’S REPRESENTATIVE INFORMATION - TO BE COMPLETED BY THE AGENCY
Representative’s Name Last First MI
Representative’s Agency (if applicable)
Representative’s Address
City State Zip Code -
Representative’s Telephone No. ( ) - Relationship to Appellant
2nd Representative’s Name Last First MI
2nd Representative’s Agency (if applicable)
2nd Representative’s Address
City State Zip Code -
2nd Representative’s Telephone No. ( ) - Relationship to Appellant

PART V – APPEAL INFORMATION - TO BE COMPLETED BY THE AGENCY
Issue Category Continue Benefits? Adverse Action Notice (form #, letter etc) Adverse Action Notice Date
#1
#2
#3
Date Filed Interim Relief Date Hearing Type (T, F or N) IR Case? (Y or N) N
Special Scheduling Requests or Accommodations
Comments

PART VI - LIMITED ENGLISH PROFICIENCY (LEP) ASSESSMENT – TO BE COMPLETED BY THE AGENCY (required)
Language Code Language Name of Agency Staff Making Assessment
Translate document Yes No Interpreter needed? Yes No Telephone No. of Above Staff ( ) -

PART VII – BHA USE ONLY
Administrative Law Judge Hearing Date Hearing Time Hearing Length Perfected by (initials) Date
CC:
**PART I – CASE RECORD INFORMATION – To be completed by BHA**

**AGENCY ADDRESS** – Enter the number and street of the agency's current mailing address. Include the apartment number, lot number, floor, etc. Remember to check the actual appeal for any change of address. NOTE: If the Appellant is now deceased, enter “deceased” in parentheses. Then enter “c/o” and the address of the Appellant’s representative.

**CITY** – Enter the city of the Appellant’s current mailing address. Do not abbreviate.

**STATE** – Enter the two-letter state abbreviation of the Appellant’s current mailing address. Example: PA for Pennsylvania.

**ZIP CODE** - Enter the zip code + 4 of the Appellant’s current mailing address.

**PART IV- APPELLANT’S REPRESENTATIVE INFORMATION – To be completed by the agency:**

The representative is a person, other than the Appellant, whom the Appellant authorized to act on his or her behalf for the appeal and hearing process. The representative may file the appeal on the Appellant’s behalf and/or represent the Appellant at the hearing. For example: if the Appellant did not sign the appeal and someone else signed on his/her behalf, that person is the representative. If someone will represent the Appellant at the hearing, that person is the representative. The representative receives copies of all of the correspondence from the Bureau of Hearings and Appeals. If the Appellant is representing himself/herself and does not have another representative leave the fields in this section blank.

**REPRESENTATIVE’S NAME** - Enter the name of the representative who signed the appeal or who will represent the Appellant at the hearing, if applicable. Enter the last name, then first name, and then the middle initial (if known).

**REPRESENTATIVE’S AGENCY** – Enter the name of the representative’s agency or employer if it is part of the representative’s current mailing address.

**REPRESENTATIVE’S ADDRESS** – Enter the number and street of the representative’s current mailing address. Include the apartment number, lot number, suite, floor, etc. of the representative’s current mailing address (if applicable). Enter the representative’s address even if it is the same as the Appellant’s address.

**CITY** – Enter the city of the representative’s current mailing address. Do not abbreviate.

**STATE** – Enter the two letter state abbreviation for the representative’s current mailing address. Example: enter PA for Pennsylvania.

**ZIP CODE** – Enter the zip code + 4 for the representative’s current mailing address.

**SECOND REPRESENTATIVE INFORMATION – The second representative is any other representative of the Appellant who needs to be copied on correspondence from the Bureau of Hearings and Appeals. Refer to the instructions under the Representative section above for these fields.**
PART V – APPEAL INFORMATION – To be completed by the agency:

ISSUE – Enter the BHA issue code from the BHA issue code list that best describes each action being appealed. Select the code within the category section that best describes the action. Only three actions may be listed per appeal. No more than three actions may be included per appeal. Appeals of additional actions must be entered into the BHA MAPPER database as an additional appeal(s) and will require additional cover sheet(s).

CIS CATEGORY CODE – Enter the Client Information System (CIS) Category Code related to the benefits in each issue, if applicable.

CONTINUE BENEFITS – Enter “Y” for yes if the Appellant’s benefits will continue during the appeal (i.e. if the Appellant was receiving benefits and appealed within 10 days of the date of the notice OR if the action on appeal does not terminate benefits). Enter an “N” for no if the Appellant’s benefits will not continue during the appeal.

ADVERSE ACTION NOTICE – Enter information about the notice(s) the agency sent to the Appellant about the issue(s) on appeal in this section. Enter the form number of the notice being appealed for each issue. Example: MR 458, PW1299, etc. You must enter the form number even if the Appellant did not include the notice with the appeal. If the notice was not included get the information from agency records, etc. If the Appellant did not include a copy of the notice, submit a copy from agency records when submitting the appeal to BHA. If the notice was a letter and did not have a form number, indicate “letter” in this field and the type of letter. Example: denial letter, discontinuance letter, etc. Note: if you wish to document letters of appeal submitted by the Appellant, please do so in the Comments section provided at the bottom of the form.

DATE FILED – Enter the date the appeal was first received at the agency. Do not use the postmark date. The appeal should be date stamped when it is first received at the agency. Use the date of the agency date stamp.

INTERIM RELIEF (IR) DATE – Use the Interim Relief Due Date Chart to determine the Interim Relief due date and enter it here. The Interim Relief due date is 90 calendar days from the file date for all appeals that do not contain Food Stamp issues. The Interim Relief due date is 60 calendar days from the file date for all appeals with a Food Stamp issue. Exception: Appeals that have a Food Stamp issue and a TANF issue have an Interim Relief due date of 90 calendar days from the file date.

TYPE OF HEARING (T, F, N) – Enter the type of hearing requested by the Appellant here. Enter “T” for telephone, “F” for face-to-face or “N” for no phone. Face-to-Face hearings are conducted at one of BHA’s regional or field offices. The default hearing type is telephone. If the Appellant selects both face-to-face and telephone on the appeal, enter “T” for telephone if he/she has a telephone number. If the Appellant has selected neither type, but has a telephone number, enter “T” for telephone. In either of these situations if the Appellant does not have a telephone number, enter “N” for no phone and the Appellant will be given a telephone hearing at the agency. Enter “F” for face-to-face only if that is the only type selected by the Appellant.

IR CASE? (Y OR N) – Always enter “N” for no because the IR date has not yet passed.

SPECIAL SCHEDULING REQUESTS OR ACCOMMODATIONS – Enter any special scheduling requests made by the Appellant or AGENCY representatives in this section. The BHA complies with the Americans with Disabilities Act (ADA). If the Appellant is disabled and requires special accommodation to participate in the hearing, enter the type of accommodation in this section. Example: large print documents due to visual impairment.

COMMENTS – Enter brief comments related to processing the appeal. Use this space only if necessary for comments related to processing or scheduling the appeal.

PART VI – LIMITED ENGLISH PROFICIENCY ASSESSMENT – To be completed by the agency:

This section must be completed for each appeal. Persons with Limited English Proficiency are persons who are limited in their ability to communicate in the English language and are better able to communicate in a language other than English. The Department of Public Welfare is committed to ensuring that persons with Limited English Proficiency (LEP) have access to its benefits and services. In order to do so, DPW staff must assess if the Appellant needs an interpreter and/or translated documents. Use the fields described below to document your LEP assessment of the Appellant. Use all of the available information to make your assessment such as contact with the Appellant in person, in writing or via telephone, agency file documentation, requests for interpreters made by the Appellant on the appeal form, etc.

LANGUAGE CODE – Enter the language code for the Appellant’s language. Enter “E” for English, “S” for Spanish or “O” for any other language. If you enter “O,” be sure to enter the name of the Appellant’s language in the next field.

LANGUAGE – Enter the name of the Appellant’s language.

NAME OF AGENCY STAFF MAKING THE ASSESSMENT– Enter the name of the Agency staff person who made the Limited English Proficiency (LEP) assessment.

TRANSLATED DOCUMENTS? - Check the box marked “yes” if the Appellant needs documents translated into a language other than English. Otherwise, check the box marked “no.”

INTERPRETER NEEDED? – Check the box marked “yes” if the Appellant needs an interpreter for a language other than English. Otherwise, check the box marked “no.” If the Appellant needs an interpreter but wants to use a family member or friend to interpret, check the box marked yes. Then, indicate whom the Appellant wants to use as an interpreter in the Comments section at the bottom of the cover sheet.

TELEPHONE NUMBER OF ABOVE STAFF – Enter the telephone number of the agency staff person who made the LEP assessment.

Do not write or type in this section. This section is reserved for BHA scheduling information.

Agency Appeal Cover Sheet Instructions 7/03
# Mental Retardation Services Appeal Issue Codes

(Revised 03/04)

<table>
<thead>
<tr>
<th>Code</th>
<th>OMR</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>870</td>
<td>OMR</td>
<td>OBRA/Nursing Home Reform - Ineligible for Nursing Home Level of Care</td>
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<tr>
<td>871</td>
<td>OMR</td>
<td>Consolidated Waiver (2176) - Denial, Suspension, Reduction or Termination of Services</td>
</tr>
<tr>
<td>872</td>
<td>OMR</td>
<td>Consolidated Waiver - Determination of Mental Retardation/Level of Care</td>
</tr>
<tr>
<td>873</td>
<td>OMR</td>
<td>Consolidated Waiver - Service Preference of Waiver Services Denied</td>
</tr>
<tr>
<td>874</td>
<td>OMR</td>
<td>Consolidated Waiver - Amount, Duration, Scope of Waiver Services</td>
</tr>
<tr>
<td>875</td>
<td>OMR</td>
<td>Consolidated Waiver - Choice of Service Provider for Waiver Services</td>
</tr>
<tr>
<td>876</td>
<td>OMR</td>
<td>Person/Family Directed Support Waiver - Denial, Suspension or Termination of Services</td>
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<tr>
<td>877</td>
<td>OMR</td>
<td>Person/Family Directed Support Waiver - Determination of Mental Retardation/Level of Care</td>
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<tr>
<td>878</td>
<td>OMR</td>
<td>Person/Family Directed Support Waiver - Service Preference of Waiver Services Denied</td>
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<td>879</td>
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<td>Person/Family Directed Support Waiver - Amount, Duration or Scope of Waiver Services</td>
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<td>880</td>
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<td>Person/Family Directed Support Waiver - Choice of Service Provider for Waiver Services</td>
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<td>881</td>
<td>OMR</td>
<td>Infants, Toddlers and Families Waiver</td>
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<tr>
<td>882</td>
<td>OMR</td>
<td>Liability for Payment of Mental Retardation Services</td>
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</tbody>
</table>
LEGAL SERVICES

ADAMS COUNTY
Legal Services Inc.
432 South Washington Street
Gettysburg, PA 17325
Telephone: (717) 334-7623

ALLEGENY COUNTY
Neighborhood Legal Services Assoc.
928 Penn Avenue
Pittsburgh, PA 15222
Telephone: (412) 255-6700

ARMSTRONG COUNTY
Laurel Legal Services
206 South Water Street
Kittanning, PA 16201
Telephone: (724) 548-7674

BEAVER COUNTY
Neighborhood Legal Services Assoc.
266 Franklin Avenue
Aliquippa, PA 15001
Telephone: (724) 378-0595

BEDFORD COUNTY
Southern Alleghenys Legal Aid, Inc.
Three Meadow Lane
P.O. Box 202
Bedford, PA 15522
Telephone: (814) 623-6189

BERKS COUNTY
Central Pennsylvania Legal Services
501 Washington Street
Suite 401
Reading, PA 19601
Telephone: (610) 376-8656

BLAIR COUNTY
Southern Alleghenys Legal Aid, Inc.
1107 12th Street
Suite 508
Altoona, PA 16601
Telephone: (814) 943-8139

BRADFORD COUNTY
North Penn Legal Services
521 Main Street
Towanda, PA 18848
Telephone: (570) 265-6127
Toll Free: (800) 942-4028

BUCKS COUNTY
Bucks County Legal Aid Society
1290 New Rodgers Road
P.O. Box 809
Bristol, PA 19007
Telephone: (215) 781-1111

BUTLER COUNTY
Neighborhood Legal Services Assoc.
220 South Main Street
Suite 301
Butler, PA 16001
Telephone: (724) 282-3888

CAMBRIA COUNTY
Southern Alleghenys Legal Aid, Inc.
400 Franklin Center
227 Franklin Street
Johnstown, PA 15901
Telephone: (814) 536-8917

CAMERON COUNTY
Northwestern Legal Services
100 Main Street
Bradford, PA 16701
Telephone: (814) 362-6596
Toll Free: (800) 753-5703

CARBON COUNTY
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122-124 Iron Street
Lehighton, PA 18235
Telephone: (610) 377-5400

CENTRE COUNTY
Mid Penn Legal Services, Inc.
2054 East College Avenue
State College, PA 16801
Telephone: (814) 238-4958

CHESTER COUNTY
Legal Aid of Chester County, Inc.
14 East Biddle Street
West Chester, PA 19380
Telephone: (610) 436-9150

CLARION COUNTY
Laurel Legal Services Inc.
231 West Main Street
Clarion, PA 16214
Telephone: (814) 226-4340
CLEARFIELD COUNTY
Keystone Legal Services
211 ½ East Locust Street
Clearfield, PA 16830
Telephone: (814) 326-9177

FAYETTE COUNTY
Southwestern PA Legal Aid Society, Inc.
48 East Main Street
Uniontown, PA 15401
Telephone: (724) 439-3591

CLINTON COUNTY
North Penn Legal Services
329 Market Street
Williamsport, PA 17701-6306
Toll Free: (800) 326-7436
Telephone: (570) 323-8741

FOREST COUNTY
Northwest Legal Services
Warr Penn Building
Room 407
213 Third Avenue
Warren, PA 16365
Telephone: (814) 726-2530

COLUMBIA COUNTY
North Penn Legal Services
168 East Fifth Street
Bloomsburg, PA 17815-2206
Telephone: (570) 784-8760

FRANKLIN COUNTY
Northwestern Legal Services
231 Chestnut Street
Meadville, PA 16335
Telephone: (814) 724-1040

CRAWFORD COUNTY
Northwestern Legal Services
Professional Building
231 Chestnut Street
Meadville, PA 16335
Telephone: (814) 724-1040

FULTON COUNTY
Legal Services Inc.
302 Lincoln Way East
P.O. Box 445
McConnellsburg, PA 17233
Telephone: (717) 485-4015

CUMBERLAND COUNTY
Legal Services, Inc.
Eight Irvine Row
Carlisle, PA 17013
Telephone: (717) 243-9400

GREENE COUNTY
Southwestern PA Legal Aid Society, Inc.
93 East High Street
Room 302
Waynesburg PA 15370
Telephone: (724) 627-3127

DAUPHIN COUNTY
Mid Penn Legal Services
213-A North Front Street
Harrisburg, PA 17101
Telephone: (717) 232-0581

HUNTINGDON COUNTY
(See CENTRE COUNTY)

DELWARE COUNTY
Delaware County Legal Assistance Assoc. Inc.
410 Welsh Street
Chester, PA 19013
Telephone: (610) 874-8421

INDIANA COUNTY
Laurel Legal Services
1112 Oakland Avenue
Suite 11
Indiana, PA 15701
Telephone: (724) 349-3440

ELK COUNTY
(See CAMERON COUNTY)

JEFFERSON COUNTY
Laurel Legal Services
201 Main Street
Brookville, PA 15825
Telephone: (814) 452-6959

ERIE COUNTY
Northwestern Legal Services
1001 State Street
Suite 1200
Erie, PA 16501
Telephone: (814) 452-6959

JUNIATA COUNTY
(See CENTRE COUNTY)
LACKAWANNA COUNTY
North Penn Legal Services
507 Linden Street
Suite 300
Scranton, PA 18503
Telephone: (570) 342-0184
Toll Free: (800) 982-4387

LANCASTER COUNTY
Mid Penn Legal Services
38 North Christian Street
Suite 200
Lancaster, PA 17602
Telephone: (717) 299-0971

LAWRENCE COUNTY
Neighborhood Legal Services
125 East North Street
Temple Building
Third Floor, Suite 329
New Castle, PA 16101
Telephone: (724) 658-2677

LEBANON COUNTY
Central PA Legal Services
118 North Eighth Street
Lebanon, PA 17046
Telephone: (717) 274-2834

LEHIGH COUNTY
North Penn Legal Services
65 East Elizabeth Avenue
Suite 903
Bethlehem, PA 18018
Telephone: (610) 317-8757

LUZERNE COUNTY
North Penn Legal Services
401 Bicentennial Building
15 Public Square
Suite 410
Wilkes-Barre, PA 18701
Telephone: (570) 825-8567

And
North Penn Legal Services
145 E. Broad Street
Room 108
Hazelton, PA 18201
Telephone: (570) 455-9512

LYCOMING COUNTY
(See CLINTON COUNTY)

MERCER COUNTY
Northwestern Legal Services
1031 Roemer Boulevard
Farrell, PA 16121
Telephone: (724) 346-6112

MIFFLIN COUNTY
(See CENTRE COUNTY)

MONROE COUNTY
North Penn Legal Services
729 Monroe Street
Stroudsburg, PA 18360
Telephone: (570) 424-5338
Toll Free: (800) 532-8282

MONTGOMERY COUNTY
Montgomery County Legal Aid Service
317 Swede Street
Norristown, PA 19404
Telephone: (610) 275-5400

MONTOUR COUNTY
(See COLUMBIA COUNTY)

NORTHAMPTON COUNTY
(See LEHIGH COUNTY)

NORTHUMBERLAND COUNTY
North Penn Legal Services
206 Arch Street
Sunbury, PA 17801
Telephone: (570) 286-5687

PERRY COUNTY
(See DAUPHIN COUNTY)

PHILADELPHIA COUNTY
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
Telephone: (215) 981-3700

AND
Community Legal Services, Inc.
Law Center North Central
3638 North Broad Street
Philadelphia, PA 19140
Telephone: (215) 227-2400

PIKE COUNTY
(See MONROE COUNTY)

POTTER COUNTY
(See CAMERON COUNTY)
**SCHUYLKILL COUNTY**  
Mid Penn Legal Services  
Pottsville Law Building  
100 West Laurel Boulevard  
Pottsville, PA 17901  
Toll Free: (800) 299-6599

**SNYDER COUNTY**  
(See NORTHUMBERLAND COUNTY)

**SOMERSET COUNTY**  
Southern Alleghenys Legal Aid Inc.  
147 East Union Street  
Somerset, PA 15501  
Telephone: (814) 443-4615

**SULLIVAN COUNTY**  
North Penn Legal Services  
Robinson Building P.O. Box 703  
Tunkhannock, PA 18657  
Telephone: (570) 836-5149

**SUSQUEHANNA COUNTY**  
North Penn Legal Services  
Federal Building  
Room 108  
Montrose, PA 18801  
Telephone: (570) 342-0184

**TIOGA COUNTY**  
North Penn Legal Services  
304 B St. James Complex  
Mansfield, PA 16933  
Telephone: (570) 724-3464  
Toll Free: (800) 326-7436

**UNION COUNTY**  
(See NORTHUMBERLAND COUNTY)

**VENANGO COUNTY**  
Northwestern Legal Services  
1243 Liberty Street  
Franklin, PA 16323  
Telephone: (814) 437-3028

**WARREN COUNTY**  
Northwestern Legal Services  
Warr-Penn Building, Room 407  
Warren, PA 16365  
Telephone: (814) 726-2530

**WASHINGTON COUNTY**  
Southwestern PA Legal Aid Society  
14 W. Cherry Street  
Washington, PA 15301  
Telephone: (724) 255-6170

**WAYNE COUNTY**  
North Penn Legal Services  
Wayne County Courthouse  
Honesdale, PA 18431  
Telephone: (570) 253-1031

**WESTMORELAND COUNTY**  
Laurel Legal Services Inc.  
306 S. Pennsylvania Avenue  
Greensburg, PA 15601  
Telephone: (712) 836-2211

**WYOMING COUNTY**  
(See SULLIVAN COUNTY)

**YORK COUNTY**  
Central Pennsylvania Legal Services  
256 East Market Street  
York, PA 17403  
Telephone: (717) 848-3605