

**ADMINISTRATION COMMISSION
AGENDA**

March 10, 2009

1. **Approval of the minutes of the December 9, 2008, meeting. Deferred from the February 10, 2009, meeting.**

2. **Consideration of the Department of Children and Families' Petition for Exception to a Uniform Rule of Procedure. (AC Case No. APA-08-010).**

On December 22, 2008, the Department of Children and Families filed a Petition for Exception to the Uniform Rules of Procedure. The Department seeks an exception to Uniform Rule of Procedure 28-106.213(5)(b), FAC, that applies in public assistance hearings conducted in accordance with section 409.285, FS, by agency hearing officers under the authority granted in section 120.80(7), FS. The request for exception is intended to make the fair hearing process more accessible to the Department's public benefits clients and increase the Department's operational efficiency in providing fair hearings.

Department's summary of grounds for exception: The Department conducts administrative hearings involving the denial, reduction, or suspension of federally-funded public benefits pursuant to section 409.285, FS. These hearings are administrative proceedings governed by Chapter 120, FS, but are conducted by Department hearing officers pursuant to section 120.80(7), FS. These hearings are conducted in accordance with the Uniform Rules of Procedure, except where the Administration Commission has previously granted exceptions to enable the Department to conform the hearings to federal requirements.

Rule 28-106.213(5)(b), FAC, requires that, when an individual appears by telephone, there must be a notary present to administer the oath. Generally, petitioners in Department fair hearings will appear by telephone from their home or place of employment. These petitioners do not have ready access to notaries. An exemption to the notary requirement will allow the Department to provide clients a meaningful opportunity to appear at hearings by telephone. Many of the Department's clients involved in these hearings are elderly or disabled, and most are financially disadvantaged. Many must rely on public transportation, paratransit, or friends and family to attend hearings. Some clients may even refrain from requesting or following through with a fair hearing because of the difficulty attendant to physical appearance at a hearing or finding a notary to go to the petitioner's location to swear them in for telephonic testimony. At a minimum, petitioners will save time away from their home or employment and travel cost to attend the hearing. Telephone hearings will be cost effective for the Department both in reduced staff travel and the more efficient use of hearing officer time.

The federal programs allow the hearings to be conducted by telephone with the petitioner's agreement. Medicaid program policy requires the state to make special plans, including conducting the hearing by telephone, as necessary, for the convenience of the claimant.

The Department intends to amend its Rule 65-2.057, Conduct of Hearing, to provide that the hearing officer will administer the oath for all witnesses including those appearing by telephone.

Staff Recommendation:

Authorize the Secretary to enter the Draft Final Order granting the exception.

Back-Up:

Department's Petition for Exception to Uniform Rules of Procedure received on December 22, 2008.

Department of Children and Families' Rule 65-2.057, Conduct of Hearing.

Draft Final Order.