

**Area Agency on Aging:** \_\_\_\_\_

**EXPANDED IN-HOME SERVICES FOR THE ELDERLY PROGRAM and  
COMMUNITY SERVICES FOR THE ELDERLY PROGRAM**

**RIGHT TO A HEARING, SETTLEMENT CONFERENCE, AND REVIEW**

Under the **Expanded In-Home Services for the Elderly Program** (EISEP) and, if you are receiving case management, non-institutional respite, or in-home services under the **Community Service for the Elderly Program** (CSE), you have the following rights when contesting a determination by the Area Agency:

1. The Area Agency must provide you with an opportunity for a hearing to contest the Area Agency's decision in the following circumstances:
  - a. You are denied EISEP services based upon the Area Agency's determination that you are not functionally eligible for EISEP (despite functional eligibility, the Area Agency may deny services based on lack of program resources);
  - b. You dispute the amount of your cost share assessed by the Area Agency; or
  - c. You are involuntarily discharged from EISEP for the following reasons:
    - i. A failure to pay your cost-share amount as required by 9 NYCRR § 6654.6;
    - ii. A failure to cooperate with the EISEP requirements, including a refusal to undergo an assessment, to agree to a care plan, to allow for in-home visits by the case manager or other staff under the direction of the case manager, or to agree to validate income information if requested to do so for purposes of determining Medicaid eligibility or cost sharing; or
    - iii. You are not expected to need services within the next ninety (90) days.
2. You may request a hearing from the Area Agency verbally or in writing within thirty (30) days of receiving notice of the contested action.
3. The Area Agency must conduct the hearing and render a decision within sixty (60) days of the date the Area Agency receives your request for a hearing.

If a postponement is requested or if the hearing is delayed for other reasons due to no fault of the Area Agency, the sixty (60) day time limit will be extended for the amount of time of the postponement or delay. If a Settlement Conference is

held, the sixty (60) day time limit will be extended for the amount of time taken to schedule and conduct the Settlement Conference.

4. Unless you agree to a shorter notification period, the Area Agency will notify you of the time, date, and place of the EISEP hearing at least fourteen (14) days prior to the hearing date.
5. You may contact the Area Agency to request that the hearing be postponed. A request for postponement must be made no later than five (5) business days prior to the scheduled hearing date.
6. You have the right to be assisted by an outside representative of your choice to resolve complaints, free from interference, coercion, discrimination, or reprisal.
7. The Area Agency must ensure that individuals are provided meaningful access to EISEP Hearings, including those with disabilities or limited English proficiency. If you require accommodations such as bi-lingual services, sign language interpreters, or assistance with mobility in connects with your hearing, you may request these services by calling the Area Agency.

### The Hearing

1. The EISEP hearing may be presided over by an individual or by a panel of individuals appointed by the Area Agency. The Hearing Officer(s) must be competent to understand the proceedings, uninvolved in the issue being contested, and free of any conflict of interest that might affect or appear to affect the ability to issue an impartial decision.
2. Both parties will be given an opportunity to present their case, including through the introduction of evidence, provided that all evidence admitted is relevant to the disputed decision.
3. All relevant documents or records in your case file must be made available to you or your named representative.
4. The standards that will be followed in an EISEP hearing are as follows:
  - a. Decisions regarding determinations of ineligibility shall be made in accordance with the EISEP eligibility criteria found in 9 NYCRR § 6654.15.
  - b. Decisions regarding the amount cost-share assessed by the Area Agency shall be made in accordance with the EISEP Cost-Sharing guidelines contained in 9 NYCRR § 6654.6.

- c. Decisions regarding involuntary discharge must be consistent with all applicable federal and New York State laws and regulations and with New York State Office for the Aging (NYSOFA) Program Instructions.

#### Your Right to a Settlement Conference

1. At any time prior to the conclusion of the EISEP hearing, you have the right to resolve your dispute through a more informal Settlement Conference.
2. Participation in a Settlement Conference does not affect the client's right to a hearing.
3. If a Settlement Conference results in a resolution of the dispute such that no hearing is necessary, a Settlement Agreement shall be entered into between the client and the Area Agency, and shall be evidenced by the signatures of each party.

#### Review by the New York State Office for the Aging

NYSOFA offers any EISEP service recipient or applicant who contests an area agency's determination of ineligibility or extent of cost-sharing the opportunity for a review and ruling on the result of an area agency hearing.

1. To have the outcome of an EISEP hearing reviewed by NYSOFA, you must file a written request with NYSOFA within 30 days following receipt of notice of the Area Agency's decision and must include your name and the name of the Area Agency involved. Requests for a review must be sent to:

New York State Office for the Aging  
Office of General Counsel  
2 Empire State Plaza, 5th Floor  
Albany, New York 12223

2. NYSOFA will complete its review within 60 days of receiving the request for a review.
3. NYSOFA may, if it deems it necessary, conduct a hearing. If NYSOFA conducts a hearing, it shall complete the hearing and issue a decision within 60 days of receiving the request for a review.

4. NYSOFA may terminate hearing or review procedures at any point if the disputed issues are resolved by negotiated agreement approved by the office.
5. NYSOFA complies with 9 NYCRR § 6651.3 and the State Administrative Procedure Act.

Requesting a Hearing or Settlement Conference

To request a Hearing or Settlement Conference, you may call the Area Agency at (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ or you may send a written request to the following:

\_\_\_\_\_  
{AGENCY NAME}

\_\_\_\_\_  
{AGENCY NAME 2}

\_\_\_\_\_  
{ADDRESS}

\_\_\_\_\_  
{ADDRESS}