

274-1-.12 Finality of Hearing Officer's Decision; Optional Review of Hearing Officer's Decision by Department Commissioner.

(1) The decision of the Appeal Panel hearing officer will become the final decision of the Department upon the sixty-first (61st) day following the date of the decision unless an objection thereto is filed with the Commissioner within the time limit established in subsection 2 of this Rule.

(2) Any party, including the Department, which disputes any finding of fact or conclusion of law rendered by the hearing officer in such hearing officer's decision and which wishes to appeal that decision may appeal to the Commissioner and shall file its specific objections with the Commissioner or his or her designee within thirty (30) days of the date of the hearing officer's decision.

(3) Any objections filed with the Commissioner shall specify in detail the errors allegedly committed by the hearing officer in the hearing officer's decision. Failure to specify such alleged errors in detail shall constitute a waiver of all available objections. Further, the party submitting such objections must specify the date upon which it received the hearing officer's decision.

(4) All objections shall be in writing. An original copy must be received by the Commissioner at the Office of General Counsel, Department of Community Health, 2 Peachtree Street, N.W., 5th Floor, Atlanta, Georgia 30303, within the applicable thirty (30) day time period. If the thirtieth (30th) day falls on a weekend or a federal or state holiday, the time for submitting such objections shall be extended to the next business day.

(a) The date of receipt shall be the official postmark date if mailed by registered or certified mail;

(b) The date of receipt shall be the date the Department actually receives the request as documented by Department date stamp if mailed by regular first class mail or if hand delivered, except that any such request received after 5:00 p.m. shall be deemed in receipt the following business day; and

(c) The only acceptable methods of delivery of any such objections shall be certified mail, registered mail, regular first class mail, and hand delivery. Further additional copies of such objections shall be mailed to each attorney of record, or directly to any party not represented by an attorney.

(5) The Commissioner, or his or her designee, shall determine whether a party complied with the provisions of this Rule. In the event the Commissioner, or his or her designee, determines that the party failed to comply with the provisions of this Rule, such person shall have the authority to render written decisions on behalf of the Department with respect to such determinations. A decision adverse to a party shall specify in detail the extent to which a party failed to comply.

Authority O.C.G.A. Secs. 31-5A, 31-6, 31-6-44. **History.** Original Rule entitled "Record of Proceedings" adopted as ER. 274-1-0.1-.12. F. July 21, 1983; eff. July 20, 1983, the date of adoption. **Amended:** Permanent Rule entitled "Decision of Hearing Panel" adopted. F. Nov. 8, 1983; eff. Nov. 28, 1983.

Repealed: New Rule entitled “Scheduling and Notice of Review Board Meetings” adopted. F. Dec. 19, 1994; eff. Jan. 8, 1995. **Amended:** F. Aug. 15, 2002; eff. Sept. 4, 2002. **Repealed:** New Rule of same title adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005. **Repealed:** New Rule entitled “Finality of Hearing Officer’s Decision; Optional Review of Hearing Officer’s Decision by Department Commissioner” adopted. F. Sept. 25, 2008; eff. Oct. 15, 2008.