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- 01/11/2022 Received by Lt. Gov & Speaker 05/11/2022

H 01/11/2022 Referred to Committee

S 01/11/2022 Referred to Committee

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Document No. 5038

**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**

CHAPTER 88

Statutory Authority: 1976 Code Section 44-20-220

Article 7. Appeal Procedures. (New)

**Synopsis**:

The Department of Disabilities and Special Needs proposes to add Article 7 to provide the procedure for the appeals of adverse decisions within the scope of state funded services provided by the Department of Disabilities and Special Needs. Specific sections added are Regulations 88-705, Definitions; 88-710, Appeals; and 88-715, Appeal Procedures.

Section-by-Section Discussion

88-705. Definitions. New.

88-710. Appeals. New.

A. Describes decisions that may be appealed. New.

88-715. Appeal Procedures. New.

A. Details steps for applicants filing appeals. New.

B. Details administrative process for the Department. New.

A Notice of Drafting was published in the *State Register* on December 25, 2020.

**Instructions:**

Print the regulation as shown below.

**Text**:

Article 7

Appeal Procedures

88-705. Definitions.

A. Appeal: A procedure by which a person seeks review of the denial of a determination of eligibility for services solely state-funded by the Department. A procedure by which a person seeks review of a decision to deny, suspend, reduce or terminate a service solely state-funded by the Department.

B. Applicant: A person about whom the Department has been contacted in order for a determination of eligibility for services solely state-funded by the Department.

C. Family Support Services: A coordinated system of family support services administered by the Department directly or through contracts with private nonprofit or governmental agencies across the State, or both. This system is solely state-funded by the Department.

D. Person Eligible for Services from the Department: An individual who has been determined by the Department to meet the criteria for eligibility for services solely state-funded by the Department.

E. Solely State-Funded Case Management: Activities, provided by qualified professionals, which will assist those eligible for the Department services in gaining access to needed medical, social, educational, and other services which are solely state-funded by the Department.

F. Solely State-Funded Community Supports: An array of services solely state-funded by the Department to those who are eligible for the Department services, but are not eligible for the Department operated Medicaid Home and Community Based Services Waiver.

G. Solely State-Funded Follow Along: Employment focused services solely state-funded by the Department to those who are eligible for the Department services, who have secured individual integrated employment in the community in collaboration with the South Carolina Vocational Rehabilitation Department.

H. Solely State-Funded Residential Habilitation: Solely state-funded services which include the care, skills training, supervision and support provided to a person eligible for services in a noninstitutionalized setting. The degree and type of care, supervision, skills training and support will be based on the person’s needs and preferences.

I. Solely State-Funded Respite: Solely state-funded services provided to participants unable to care for themselves; furnished on a short-term basis because of the absence or need for relief of those individuals normally providing the care.

88-710. Appeals.

A. Decisions that may be appealed include, but are not limited to:

(1) Eligibility for the solely state-funded Department services.

(2) Denial, suspension, reduction or termination of a service solely state-funded by the Department to include but not limited to:

(a) Solely State-Funded Community Supports

(b) Solely State-Funded Follow-Along

(c) Solely State-Funded Case Management

(d) Solely State-Funded Respite

(e) Solely State-Funded Residential Habilitation

(f) Family Support Services

88-715. Appeal Procedures.

A. Applicants Seeking Eligibility for solely state-funded Department Services

(1) Step 1: Written Appeal: When an appeal is desired by the applicant, a signed and dated written appeal of the denial must be made within 30 calendar days from the date of the written correspondence from DDSN which communicates the eligibility decision of the Department. The appeal must state the reason(s) the denial was in error, and include any additional supporting information. The appeal shall be made by letter: South Carolina Department of Disabilities and Special Needs- Appeals, 3440 Harden Street Extension, Columbia, South Carolina 29203 or email: appeals@ddsn.sc.gov sent to the State Director of the Department. Reasonable accommodations to assist with communication will be provided upon request.

(2) Step 2: Review: Upon receipt of the appeal, all information shall be reviewed by the State Director using the eligibility criteria as set forth in the Department’s regulation addressing “Eligibility”. If the State Director determines new evaluation data is needed, no decision shall be made until this data is received. The applicant shall be notified that the new evaluation is needed within 30 business days of receipt of the written appeal.

(3) Step 3: Decision: A written decision shall be provided to the applicant within 30 business days of receipt of the written appeal or receipt of the new evaluation data. In accordance with S.C. Code §44-20 430, the decision of the State Director is final.

B. Denial, Suspension, Reduction or Termination of a service solely state-funded by the Department.

(1) Step 1: Written Appeal: When an appeal is desired by the person eligible for services from the Department, a signed and dated written appeal of a decision to deny, suspend, reduce or terminate a service solely state-funded by the Department shall be made within 30 businessdays of the notification of the decision. The appeal shall state the reason(s) the denial/suspension/reduction/termination was in error including any additional supporting information. The appeal shall be made by letter: South Carolina Department of Disabilities and Special Needs- Appeals, 3440 Harden Street Extension, Columbia, South Carolina 29203 or email: appeals@ddsn.sc.gov sent to the State Director of the Department. Reasonable accommodations to assist with communication will be provided upon request.

(2) Step 2: Review: Upon receipt of the appeal, all available information shall be reviewed by the State Director.

(3) Step 3: Decision: A written decision shall be provided to the person eligible for services within 30 business days of receipt of the written appeal. The decision of the State Director shall be final.

**Fiscal Impact Statement**:

There will be no increased cost to the State or its political subdivisions.

**Statement of Rationale**:

These regulations are added to clarify and state Department procedures.