

September 19, 2023

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 23-82

The purpose of this All County Letter (ACL) is to describe how State Hearings Division (SHD) processes a claimant's conditional or unconditional withdrawal using State Hearings Division's Appeals Case Management System (ACMS). This ACL also addresses the process for withdrawing a rehearing request.



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GAVIN NEWSOM
GOVERNOR

September 19, 2023

ALL COUNTY LETTER NO. 23-82

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ADMINISTRATOR OFFICERS
ALL COUNTY HEARING REPRESENTATIVES
ALL ADMINISTRATIVE LAW JUDGES
COVERED CALIFORNIA
DEPARTMENT OF HEALTH CARE SERVICES

SUBJECT: THE PROCESS TO WITHDRAW A STATE HEARING REQUEST
(UNCONDITIONAL OR CONDITIONAL) AND A REHEARING
REQUEST.

REFERENCE: [CDSS MANUAL OF POLICIES AND PROCEDURES \(MPP\)](#)
[DIVISION 22, 22-054.2, 22-065.8 AND 9; GOLDBERG V. KELLY](#)
[397 U.S. 254 \(1970\); 45 CFR 205.10; 45 CFR 155.530; 42 CFR](#)
[431.221\(a\)\(1\)\(i\); 42 CFR 431.223; 7 CFR 273.15\(u\); 10 CAL.](#)
[CODE REGS. \(CCR\) 6610](#)

INTRODUCTION

The purpose of this All County Letter (ACL) is to describe how State Hearings Division (SHD) processes a claimant's conditional or unconditional withdrawal using State Hearings Division's Appeals Case Management System (ACMS), describe the withdrawal processes for counties and other responsible agencies, such as Covered California, the Department of Health Care Services, and health plans (hereafter "counties", "agency" or "agencies"), and to address withdrawal of rehearing requests.

The purpose of the withdrawal process is to promote the parties' ability to resolve disputes at the lowest possible administrative level without a hearing, while also protecting the claimant's due process rights in compliance with legal requirements.

The withdrawal process applies to both conditional withdrawals (which require further agency actions to resolve the issue in dispute) and unconditional withdrawals (a full retraction of the hearing request, without conditions), and is uniform for all programs subject to the jurisdiction of SHD.

LEGAL FRAMEWORK

The meaningful opportunity to be heard in a fair hearing before an Administrative Law Judge (ALJ) is guaranteed by the U.S. Constitution as provided in [*Goldberg v. Kelly* 397 U.S. 254 \(1970\)](#) and [Code of Federal Regulations \(CFR\). Title 45, Section 205.10](#).

To preserve a claimant's right to be heard in a fair hearing, each of the programs over which SHD has jurisdiction mandates that withdrawals must be in writing. To ensure due process, the claimant or authorized representative (AR) must withdraw their hearing request in writing, otherwise the required criteria for a withdrawal has not been met and the hearing will proceed. ([MPP 63- 804.4](#); [7 CFR 273.15\(u\)](#); [42 CFR 431.221\(a\)\(1\)\(i\), .223](#); [42 CFR 435.907\(a\)](#); [45 CFR 1355.30\(p\)\(2\)](#); [45 CFR 155.530](#); [45 CFR 205.10\(a\)\(5\)\(v\)](#); [California Code of Regulations \(CCR\), Title 10, Section 6610\(a\)\(1\)\(B\)\(1\)](#))

PROCEDURAL FRAMEWORK

A claimant or AR may withdraw their hearing request any time before a decision of the Director is signed. ([MPP 22-054.211](#))

SHD's procedural regulations mandate that conditional withdrawals must be executed by the agency and the claimant or AR. ([MPP 22-054.211\(b\)\(3\)](#))

Current regulations provide that the SHD-issued letter confirming oral unconditional withdrawals serves as the written withdrawal request. ([MPP 22-054.211 \(a\)](#))

A rehearing request shall be permitted to be withdrawn at any time before the Department has acted upon the request. ([MPP 22-065.8](#))

If a rehearing request has been granted, a party may withdraw the rehearing request only upon the approval of the Chief Administrative Law Judge (CALJ) or designee. ([MPP 22-065.9](#))

MEANS OF SECURING AND TRANSMITTING WITHDRAWALS TO SHD

A withdrawal may be conditional or unconditional. The process for both is discussed below.

I. UNCONDITIONAL WITHDRAWAL

An unconditional withdrawal is a full retraction of the hearing request, without conditions, and is uniform for all programs subject to the jurisdiction of SHD. An unconditional withdrawal shall be submitted in writing. ([MPP § 22-054.211\(a\)](#))

The written request to unconditionally withdraw a hearing can be submitted three ways. Any of the three ways will allow a claimant or AR to unconditionally withdraw their hearing request.

A. E-FILER

A claimant or AR e-filer can directly request an unconditional withdrawal in ACMS. Once the claimant or AR submits the request to unconditionally withdraw in ACMS, the hearing will automatically be withdrawn.

B. MAIL, FACSIMILE, E-MAIL

The claimant or AR can submit a request to unconditionally withdraw their hearing request by mail, facsimile, or e-mail. Upon confirmation of authority to withdraw, SHD staff will unconditionally withdraw the hearing request in ACMS.

C. VERBAL REQUEST CONFIRMED IN WRITING

The claimant can submit a verbal request to unconditionally withdraw their hearing request. ([MPP § 22-054.211\(a\)](#)) A verbal request can be submitted through the Interactive Voice Response (IVR) system (described in more detail in the conditional withdrawal section) or by telephone. In such circumstances, SHD will send the claimant a letter confirming the withdrawal request. This letter shall constitute the written request to unconditionally withdraw the hearing. ([MPP § 22-054.211\(a\)](#))

At times, the agency may be aware of an unconditional withdrawal that has not been communicated to SHD. If the agency informs SHD of the claimant's or AR's intent to unconditionally withdraw a hearing, SHD will contact the claimant or AR and confirm the intent to unconditionally withdraw. SHD will not address any questions related to the withdrawal. If the claimant or AR has any questions about the terms of the withdrawal, SHD will instruct the claimant to speak to the agency. When the claimant or AR confirms unequivocally that they desire to unconditionally withdraw their hearing request, SHD staff will enter the withdrawal in ACMS. In such circumstances, SHD will send the claimant a letter confirming the withdrawal request. This letter shall constitute the written request to unconditionally withdraw the hearing.

II. CONDITIONAL WITHDRAWAL

A conditional withdrawal is a retraction of the claimant's hearing request based on the agency's agreement to take further actions to resolve the issue. A conditional withdrawal request must be in writing and signed by the claimant or AR and the agency representative. ([MPP §§ 22-054.211\(a\), \(b\)\(3\)\(A\)](#))

A. WRITTEN REQUEST AND CLAIMANT'S OR AUTHORIZED REPRESENTATIVE'S SIGNATURE

California Civil Code section 1633.2(h) states that an "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record."

As such, SHD shall consider any conditional withdrawal request that is submitted via mail, facsimile, e-mail, text, IVR, or phone, plus the written terms signed by the agency to constitute both a signature (electronic signature) and a written request as required by [MPP § 22-054.211](#).

SHD will accept any of the following means discussed below to be valid electronic signatures. Regardless of which of the below means is used to sign and consent, the conditional withdrawal will not be processed by SHD unless the written terms have been uploaded to ACMS.

1. MAIL, FACSIMILE, OR E-MAIL

To be adequate, the mailing, facsimile, or e-mail must contain a statement of unequivocal agreement by the claimant or AR to conditionally withdraw the hearing request and list the terms of the agreement. SHD will confirm the sender's authority to act on the case. ([MPP §§ 22-001\(a\)\(6\), 22-001\(c\)\(2\)](#)) This submission will constitute either an electronic signature or physical signature and written request.

The submission can be provided to SHD directly or uploaded to ACMS directly.

The conditional withdrawal will not be processed without the written terms, as discussed below, and signed by the agency. Once SHD staff confirms that the agency has uploaded the conditional withdrawal terms in ACMS, the hearing will be dismissed in ACMS.

2. TELEPHONIC SIGNATURE

A claimant or AR can confirm a conditional withdrawal over the telephone with SHD. Prior to uploading the terms of the conditional withdrawal, the agency shall contact the claimant to discuss and confirm the claimant's/AR's agreement to the terms of the conditional withdrawal. The agency may not rely on telephonic signature, unless they have first obtained the claimant's/AR's consent to the terms of the agreement.

The agency shall upload the terms into ACMS and indicate that the agency has contacted the claimant/AR and confirmed the terms. SHD will then contact the claimant, verify their identity, and read the terms of the agreement to the claimant/AR. If the claimant/AR confirms the agreement, the confirmation will be documented in ACMS, and the hearing will be dismissed.

If the claimant/AR contacts SHD regarding a conditional withdrawal prior to the conditional withdrawal agreement at issue being uploaded to ACMS, SHD will make an inquiry to the agency about uploading the agreement. If a conditional withdrawal agreement is subsequently uploaded, and the claimant/AR has questions regarding the terms of the agreement, SHD will direct the claimant/AR to contact the agency. SHD will not enter a conditional withdrawal until claimant/AR confirmation is received regarding the terms of the agreement.

3. SHD OR AGENCY INTERACTIVE VOICE RESPONSE (IVR)

The IVR system generates a series of prompts which the claimant or AR respond to, including stating the terms of the conditional withdrawal. SHD's IVR systems can be used by any claimant or authorized representative, with or without the assistance of the agency. Additionally, some agencies offer their own IVR system that can also be used.

Whichever IVR system is used it must include the following statements:

- I (claimant or AR) understand that by accepting the resolution agreement, I or beneficiary may be giving up their right to have an administrative law judge review their hearing request;
- I (claimant or AR) understand I have the right to have an administrative law judge issue a decision;
- I (claimant or AR) have come to an agreement with the agency to resolve the issue(s) in dispute;
- I (claimant or AR) understand that I or the beneficiary have the right to reopen the hearing request if the agency does not carry out the agreement; and,
- A reading of the terms of the agreement.

IVR cannot be used for Dual Agency cases, such as with agencies and DHCS, or agencies and Covered California.

i. SHD IVR

ACMS will automatically create a withdrawal task after an IVR conditional withdrawal recording has been uploaded using the SHD IVR system. SHD staff will then confirm that the terms of the agreement have also been uploaded to ACMS and signed by the agency, and if so, approve the withdrawal task.

ii. AGENCY IVR-UPLOAD RECORDING

If an agency IVR system is being used by the claimant or authorized representative and agency, the agency must ensure the IVR recording is uploaded to ACMS in the document tab and create a conditional withdrawal task. Once the agency IVR recording has been saved and uploaded in ACMS, the IVR recording is available for review in the ACMS Documents tab.

The creation of the conditional withdrawal task by the agency will alert SHD staff to commence processing the conditional withdrawal request. Prior to approving the conditional withdrawal in ACMS, SHD staff will confirm that ACMS contains a copy of the written terms of the agreement and that the terms are signed by the agency.

**B. CONDITIONAL WITHDRAWAL TERMS MUST BE UPLOADED TO
ACMS AND SIGNED**

When a withdrawal is conditional, the withdrawal request must be accompanied by an agreement signed by the claimant and the agency.

The agency must ensure that the terms of the conditional withdrawal are uploaded onto ACMS. SHD will not process a conditional withdrawal unless ACMS contains the written terms of the agreement.

SHD will not make any substantive review of the agreement terms as part of the processing. At times SHD may need to read the terms of the agreement to the claimant or AR, as such, to avoid delay in processing the conditional withdrawal, agencies should ensure the terms uploaded to ACMS are in English. This does not change the agency's language access legal obligations.

Agencies should ensure that all issues the claimant has listed in the hearing request, and related hearing issues that have been identified, are addressed in the conditional withdrawal. This can be accomplished by the agency and/or claimant agreeing to take an additional action to resolve the issue(s) identified wholly.

Parties may also resolve some hearing issues as conditionally withdrawn and withdraw the remainder without conditions or agency action required.

Additionally, pursuant to [MPP § 22-054.211\(b\)\(3\)\(B\)](#), the agreement must provide that the actions of the parties shall be completed within 30 days from the date the conditional withdrawal form is signed by both parties and received by the agency.

1. SIGNATURE BY PARTIES

As explained above, because the means listed in sections above constitute an electronic signature, the claimant's or AR's physical signature on the conditional withdrawal terms is not required. However, the agency's signature (physical or digital) must be on the conditional withdrawal agreement terms uploaded to ACMS before a conditional withdrawal will be processed. ([MPP § 22-054.211\(b\)\(3\)\(A\)](#))

C. CONDITIONAL WITHDRAWALS INVOLVING DUAL AGENCIES

In cases where more than one agency is a party to the hearing, all parties, each agency, and the claimant or AR must consent to the conditional withdrawal. SHD will not dismiss a hearing request unless the claimant confirms that the conditional withdrawal is applicable to all agencies, which may be done by submitting a written confirmation from each agency, or a joint written confirmation.

In Affordable Care Act Dual Agency cases, all parties, the county, Covered California and the claimant or AR must consent to the withdrawal. SHD cannot dismiss a hearing request unless the claimant confirms that the withdrawal is applicable to both agencies. This may be done by submitting two written confirmations, a joint written confirmation, except that one of the agencies in a Dual Agency case may be dismissed from the case upon the written attestation by the other agency that the agency to be dismissed has no responsibility in the issue(s) in dispute.

III. CONFIRMATION LETTER OF WITHDRAWALS

Once a case is withdrawn using the process outlined above, SHD will notify all parties in writing that the case has been dismissed. ACMS will generate a letter informing the parties that the case has been dismissed as an unconditional or conditional withdrawal, as is applicable.

When the agency or claimant submits a written request for withdrawal, that includes a signature and written terms if a conditional withdrawal, the claimant and agency can expect the case to be dismissed prior to scheduling the hearing or prior to the date of the scheduled hearing, as applicable.

Once the dismissal has been confirmed in ACMS, the agency is relieved of having to prepare a Statement of Position (SOP). Until a withdrawal is confirmed, and the case dismissed in ACMS, the hearing remains on calendar and the agency is still responsible to prepare a timely SOP. ([MPP § 22-073.252](#))

The agency may continue to request that SHD process a confirmed withdrawal any time prior to the opening of the hearing record. Until a withdrawal is confirmed, and the case dismissed, the hearing remains on calendar. Once the hearing record is open, the agency may offer its proposed resolution, which, if the claimant accepts the terms on the record, will result in a stipulated decision.

It is noted that nothing in this ACL changes the procedures outlined in regulation for complying with a confirmed conditional withdrawal. ([MPP 22-054.211\(b\)\(3\)\(B\)\(C\)](#); [MPP 22-071.1](#); [MPP 22-009](#))

IV. CLAIMANT CONFIRMS CONDITIONAL WITHDRAWAL AFTER NON-APPEARANCE DISMISSAL DECISIONS

If the claimant or authorized representative does not appear at the scheduled hearing and a conditional withdrawal has not been processed, SHD will dismiss the case and issue a non-appearance decision. The decision will inform the claimant of the right to request to reopen the hearing. ([MPP 22-054.222](#))

If the claimant or authorized representative contacts SHD to reopen a hearing, SHD will process the reopening (granting or denying) as outlined in regulation. See [MPP 22-054.222](#) and [MPP 22-053.3](#) for full details on reopening. If the reopening is granted, the agency can re-offer the same conditional withdrawal previously offered or a revised conditional withdrawal. Once the non-appearance decision has been issued, the agency is not bound by its prior settlement offer and may choose to offer a different settlement or not to offer new settlement terms.

If the agency desires to enter into a conditional withdrawal following a reopening, the same process outlined in Section II shall apply.

V. REHEARING WITHDRAWAL

A party may withdraw a rehearing request any time before SHD has acted on the request. ([MPP 22-065.8](#)) Parties may submit a request to withdraw a rehearing request by contacting SHD, by opening a rehearing task in ACMS and uploading the request, or by sending an email to SHD. SHD will review the request to ensure that the party who requested the rehearing submitted the request to withdraw it. SHD will then close the rehearing task within ACMS.

After a rehearing request has been granted, it shall be permitted to be withdrawn by the requesting party subject to the approval of the Chief Administrative Law Judge, their designee assigned to the rehearing, or the Administrative Law Judge. ([MPP 22-065.9](#)). The party who requested the rehearing may submit a request by contacting SHD, by uploading the request to ACMS or by sending an email to SHD. SHD staff will forward the request to the Chief or designee for approval, and if approved, will close the rehearing task within ACMS.

When SHD has granted the rehearing request, parties may resolve the disputed issues pending the rehearing. When the withdrawal request is a confirmed conditional withdrawal of a rehearing pending scheduling or pending the scheduled rehearing, the parties shall complete the "confirmed conditional withdrawal" process described above. SHD will review the terms of the conditional withdrawal to ensure that all issues that were subject to rehearing are addressed, and then forward the request to the CALJ or designee, for approval.

If you have any questions or need additional guidance regarding the information in this letter, contact the State Hearings Division at shdprb@dss.ca.gov.

Sincerely,

Original Document Signed By

MARGARET BOYD
Deputy Director/Chief Administrative Law Judge
State Hearings Division