

28.03.01.00¹

Subtitle 03 FEES

Chapter 01 Fee Assessment and Payment; Waivers

Authority: State Finance and Procurement Article, §10-501; State Government Article, §§9-1604, 10-206, and 10-215; Annotated Code of Maryland

28.03.01.01

.01 Scope.

A. These regulations outline procedures for the payment of fees for certain hearings conducted by the Office.

B. These regulations do not apply to:

- (1) State government offices, agencies, or other units of State government;
- (2) County or municipal governments;
- (3) Individual parties in hearings conducted under State Personnel and Pensions Article, Annotated Code of Maryland; or
- (4) Individual parties in hearings regarding claims for assistance or reimbursement of assistance involving:
 - (a) Developmental disabilities pursuant to Health-General Article, Title 7, Annotated Code of Maryland;
 - (b) Mental health pursuant to Health-General Article, Title 10, Subtitle 7, Annotated Code of Maryland;
 - (c) Assistance programs pursuant to Health-General Article, Title 15, Annotated Code of Maryland;

¹ General key:

Proposed deleted items appear in brackets ([]).

Proposed amendments/additions appear in *italics*.

- (d) Special Supplemental Food Program for Women, Infants, and Children pursuant to Health-General Article, §18-108, Annotated Code of Maryland;
- (e) Public assistance pursuant to Human Services Article, Title 5, Annotated Code of Maryland;
- (f) Community services pursuant to Human Services Article, Title 6, Annotated Code of Maryland; or
- (g) A request for order of eligibility or a petition for supplemental compensation pursuant to State Finance and Procurement Article, §10-501, Annotated Code of Maryland.

28.03.01.02

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Agency action” means the action, proposed action, or inaction of any unit of government that gives rise to:

(a) A contested case hearing conducted by the Office under State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland; or

(b) Any other Office proceeding.

(2) “ALJ” means an individual:

(a) Appointed as an Administrative Law Judge pursuant to State Government Article, §9-1604(a)(2), Annotated Code of Maryland; or

(b) Designated pursuant to State Government Article, §9-1607, Annotated Code of Maryland.

(3) Favorable Decision.

(a) “Favorable decision” means, except as provided in §B(3)(b) of this regulation, an ALJ’s order or proposed order that:

(i) Dismisses or denies an agency enforcement action;

(ii) Takes no action under the Transportation Article, Annotated Code of Maryland;

(iii) Denies an insurer’s proposed cancellation, nonrenewal, or reduction of motor vehicle liability insurance coverage for the person that requested the hearing under the Insurance Article, Annotated Code of Maryland;

(iv) Upholds the proposed action of an insurer that requested a hearing under the Insurance Article, Annotated Code of Maryland;

(v) Determines an arrearage was improperly certified under Family Law Article, §10-113 or 10-113.1, Annotated Code of Maryland;

(vi) Denies the proposed report of arrearage under Family Law Article, §10-108.1, Annotated Code of Maryland; or

(vii) Rules out an individual as a suspected child abuser or suspected child neglecter under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland.

(b) “Favorable decision” does not mean an order or proposed order of an ALJ that:

(i) Modifies a motor vehicle suspension or revocation order; or

(ii) Is based on another party’s failure to appear at an Office proceeding.

(4) “Filed” means that a document is postmarked or received in accordance with COMAR 28.02.01.04D.

(5) “Filing fee” means a payment required to accompany a request for a hearing under this chapter.

(6) “Indigence” means that an individual’s family household income is less than 50 percent of the median family income for the State as reported in the Federal Register.

(7) “Office” means the Office of Administrative Hearings.

(8) “Office proceeding” means any type or stage of legal process scheduled by the Office.

(9) “Person” means an individual, representative, corporation, or other entity, including any public or nonprofit corporation, or any agency or instrumentality of federal, State, or local government.

(10) “Subpoena processing fee” means a payment required to accompany a request for a subpoena under this chapter.

(11) “Working day” means a day on which the Office is open from 8 a.m. to 4:30 p.m.

28.03.01.03

.03 Payment of Filing Fees.

A. Except as provided in Regulations .01B and .06 of this chapter, a request for a hearing shall be accompanied by payment of:

- (1) A \$150 filing fee for a hearing related to violation of the Maryland Vehicle Law; or
- (2) A \$50 filing fee for other types of hearings for which a filing fee is required.

B. Payment of the Filing Fee.

(1) Payment of the filing fee may be by:

- (a) Certified check;
- (b) Cashier's check;
- (c) Money order; or
- (d) Personal check.

(2) The Office may not accept cash as payment of a filing fee.

C. The Office shall schedule a hearing only upon receipt of a valid hearing request.

28.03.01.04

.04 Payment of Subpoena Processing Fees.

A. Except as provided in Regulations .01B and .06 of this chapter, requests for subpoenas shall be accompanied by payment of a \$5 processing fee for each subpoena requested.

B. Payment of Subpoena Fee.

(1) Payment of the subpoena fee may be by:

- (a) Certified check;
- (b) Cashier's check;
- (c) Money order; or
- (d) Personal check.

(2) *The Office may not accept cash as payment of a subpoena fee.*

C. All financial instruments, including checks, money orders, or other forms of payment submitted under this chapter, shall be made payable to the Maryland State Treasurer's Office.

D. If a subpoena is not issued by the Office, the fee shall be returned.

28.03.01.05

.05 Assessment of Penalties for Insufficient Checks.

A. A personal check that is returned for insufficient funds shall be turned over to the Central Collection Unit of the Department of Budget and Fiscal Planning [collection.] *pursuant to the Maryland Code, State and Finance and Procurement Article.*

B. An additional fee of \$25 shall be assessed on all checks returned for insufficient funds.

28.03.01.06

.06 Waiver of Fees.

A. Eligibility Criteria. The Office shall waive filing and subpoena processing fees for a person that, when the request is filed:

- (1) Is exempt from filing and subpoena processing fees under Regulation .01B of this chapter;
- (2) Is represented by counsel retained through any legal services program which receives State funding or funding through the Maryland Legal Services Corporation; or
- (3) Applies for and is granted a waiver based on indigence under §B of this regulation.

B. Requests for Fee Waivers Based on Indigence.

(1) Indigent persons may apply for a fee waiver by including with their request for a hearing or request for a subpoena:

(a) Documentation that they are receiving assistance listed in Regulation .01B(4) of this chapter; or

(b) An appropriate affidavit of indigence with supporting documentation.

(2) An Affidavit of Indigence form, and instructions for completing it, are available:

(a) On the Office website *on the Fees page*;

(b) By mail upon request.

(3) If a request for a fee waiver is received without an affidavit demonstrating indigence:

(a) Within 5 calendar days after receipt of the request, the Office shall mail the requesting person an Affidavit of Indigence form with instructions; and

(b) Within 14 calendar days after the form was mailed, the requesting person shall file the completed form and any supporting documentation.

(4) If it determines that the person is indigent, the Office shall grant the requested fee waiver or waivers.

C. The Office may modify or waive any time periods established by this chapter for good cause.

28.03.01.07

.07 Failure to Pay Required Fees.

A. Unless a waiver is granted under Regulation .06 of this chapter, failure to pay a required filing fee may result in the dismissal of a person's request for a hearing.

B. Unless a waiver is granted under Regulation .06 of this chapter, failure to pay a required subpoena processing fee [may] *will* result in a subpoena not being issued.

28.03.01.08

.08 Refunds of Fees.

A. Refunds.

(1) Except as provided in §A(2) of this regulation, the Office shall refund a filing or subpoena processing fee if the person that paid the fee receives a favorable decision.

(2) The Office shall not refund:

(a) Fees that were waived under Regulation .06 of this chapter; or

(b) Processing fees for subpoenas that were issued.

B. The Office shall process and mail a refund within 30 days after:

(1) The person that paid the fee receives a favorable decision;

(2) The presiding ALJ certifies the favorable decision; and

(3) The [person] *party* that paid the fee provides a correct mailing address and other information required by the Office.

28.03.01.9999

Administrative History

Effective date: October 26, 1992 (19:21 Md. R. 1897)

Regulation .01B amended as an emergency provision effective October 1, 1993 (20:20 Md. R. 1566); amended permanently effective April 1, 1994 (21:5 Md. R. 406)

Regulation .01B amended effective January 10, 2020 (46:26 Md. R. 1168)

Regulation .01B amended as an emergency provision effective July 16, 2021 (48:17 Md. R. 666); emergency provision expired effective December 13, 2021

Regulation .01B amended effective December 13, 2021 (48:25 Md. R. 1081)

Regulation .02B amended as an emergency provision effective October 1, 1993 (20:20 Md. R. 1566); amended permanently effective April 1, 1994 (21:5 Md. R. 406)

Regulation .02B amended effective January 12, 2001 (27:26 Md. R. 2361); January 10, 2020 (46:26 Md. R. 1168)

Regulation .03A amended effective December 10, 2015 (42:24 Md. R. 1506); January 10, 2020 (46:26 Md. R. 1168)

Regulation .04A amended effective January 10, 2020 (46:26 Md. R. 1168)

Regulation .05 amended effective January 10, 2020 (46:26 Md. R. 1168)

Regulation .06 amended effective January 10, 2020 (46:26 Md. R. 1168)

Regulation .06A amended effective December 10, 2015 (42:24 Md. R. 1506)

Regulation .06B amended effective August 24, 2020 (47:17 Md. R. 797)

Regulation .07 amended effective January 10, 2020 (46:26 Md. R. 1168)

Regulation .08 amended effective January 10, 2020 (46:26 Md. R. 1168)