

DHA Decision Review Process

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Purpose: To inform the W-2 agencies of a new process that the Division of Workforce Solutions (DWS) and the Department's Office of Legal Counsel designed to communicate with the Division of Hearings and Appeals (DHA) on incorrect Departmental Review decisions.

Background: When a participant disagrees with a W-2 decision, the first step in the W-2 dispute resolution process is to request a fact finding (FF) review. If the participant then disagrees with the FF decision, the second step is to request a Departmental Review. At the request of DWD, the Division of Hearings and Appeals (DHA) conducts Departmental Reviews.

DWS staff review all W-2 DHA decisions on a regular basis. The three potential outcomes based on these reviews are:

1. The division agrees with decision;
2. The division agrees with decision and identifies potential policy modifications to prevent future confusion; and
3. The division disagrees wholly or in part with decision.

If the outcome is #1, no further action is taken. If the outcome is either #2 or #3, additional steps are taken.

In the case of #2, DWS policy staff review the policy in question and determine whether policy updates are necessary. These updates are issued through W-2 Manual releases or through Operations Memos.

A new process was developed to address #3.

New Process when the Division Disagrees: When DWS disagrees with DHA's decision, two letters will be created.

The first letter will go to the W-2 agency. This letter notifies the agency that although they are bound by DHA's decision, the Division of Workforce Solutions (DWS) disagrees in principle wholly, or partially, with the decision and clarifies certain points made by the hearing examiner. Furthermore, it informs the agency that the decision affects only the individual case and it should not be applied to other cases. It instructs the agency to continue making policy decisions based on the clarifications in the letter rather than the decision put forth by DHA.

The second letter will go to DHA with a copy of the agency letter. In the second letter, DHA is informed that DWS disagrees with specific policy points made in the decision and that final decision making authority is being withdrawn in future cases involving the policy issue. It requires that DHA issue any future decisions regarding the policy as proposed rather than final decisions in order to allow the DWS the opportunity to provide input on decisions they deem wholly or partially incorrect.

Questions or concerns regarding this new process should be directed to Margaret McMahon, W-2 Program and Planning Analyst, 608-268-5899.