

210-RICR-10-05-05

TITLE 210 – Executive Office of Health and Human Services

CHAPTER 10 – EOHHS General Provisions

SUBCHAPTER 05 - Consumer Rights, Responsibilities, and Protections

PART 5 – Declaratory Order Petitions

5.1 Purpose

This regulation states the requirements for submitting a request for Declaratory Order under R.I. Gen. Laws § 42-35-8(b), and the procedure for its consideration and prompt disposition.

5.2 Authority

This regulation is promulgated pursuant to the authority granted in R.I. Gen. Laws § 42-35-8.

5.3 Definitions

A. The following definitions shall apply to this regulation:

1. "Declaratory order" means an order issued by the State Agency that:
 - a. Interprets or applies a statute administered by the State Agency;
 - b. Clarifies whether a rule, guidance document, or order issued by the State Agency applies to a Petitioner; or
 - c. Clarifies how a rule, guidance document, or order issued by the State Agency applies to a Petitioner.
2. "Petition" means a request for a Declaratory Order.
3. "Petitioner" means a person requesting a Declaratory Order.
4. "State Agency" means the Executive Office of Health and Human Services (EOHHS).

5.4 Request for Declaratory Order: Form and Submission

- A. A request for Declaratory Order must be in writing and include the following information:
1. The name and address of the Petitioner;
 2. A plain statement identifying the statute, rule, guidance document, or order at issue;
 3. A detailed statement of all facts relied upon by the Petitioner;
 4. A copy of any and all documents relied upon by Petitioner that are not otherwise accessible to the State Agency; and
 5. A plain statement requesting a Declaratory Order, and further indicating whether Petitioner seeks:
 - a. An interpretation or application of a statute administered by the State Agency;
 - b. Clarification as to whether a rule, guidance document, or order issued by the State Agency applies to Petitioner; and/or
 - c. Clarification as to how a rule, guidance document, or order issued by the State Agency applies to Petitioner.
- B. A request for a Declaratory Order must be submitted to: EOHHS Office of Legal Services, Hazard Building, Second Floor, 74 West Road, Cranston, RI 02920.

5.5 Consideration and Disposition of Request for Declaratory Order

- A. The State Agency shall promptly consider and respond to the request for Declaratory Order as provided in R.I. Gen. Laws § 42-35-8(c).
1. Should the State Agency schedule the matter for further consideration, the State Agency shall notify Petitioner in writing of the anticipated date on which the State Agency will grant or deny the request for Declaratory Order.
- B. The State Agency may, at its discretion:

1. Hold a hearing for further consideration and discussion on the Petition; or
 2. Request further information or documents from the Petitioner necessary for the full evaluation of his or her petition.
- C. A Petitioner may appeal the State Agency's final disposition of the request for Declaratory Order as provided in R.I. Gen. Laws § 42-35-15.

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Type of Filing: Adoption

Effective Date: 10/16/2017

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