

3701-84-14 Variances; waivers.

- (A) In accordance with paragraph (B) of this rule, the director may grant a variance or waiver from any requirement established by Chapter 3701-84 of the Administrative Code.
- (B) Upon written request of the provider of the HCS, the director shall grant or deny a variance or waiver by written response within forty-five days of receipt of a request and all information determined necessary by the director to make a decision. In granting a variance or waiver, the director shall stipulate a time period for which the variance or waiver is to be effective and shall establish conditions that the HCS must meet for the variance or waiver to be operative. The director may grant:
 - (1) A variance if the director determines that the requirement has been met in an alternative manner; and
 - (2) A waiver if the director determines that the strict application of the requirement would cause an undue hardship to the HCS and that granting the waiver would not jeopardize the health and safety of any patient.
- (C) The granting of a variance or waiver is a discretionary act by the director based upon documentation:
 - (1) In the case of a variance request, as to how the HCS is meeting the intent of the requirement in an alternative manner; and
 - (2) In the case of a waiver request, as to how the requirement is an undue hardship to the HCS and why the waiver will not jeopardize the health and safety of any patient.
- (D) The granting of a variance or waiver by the director shall not be construed as constituting precedent for the granting of any other variance or waiver. All variance and waiver requests shall be considered on a case-by-case basis.
- (E) The provider of a HCS whose request for a waiver or variance under this rule is denied may request reconsideration of the decision by the director. A request for reconsideration must:
 - (1) Be received in writing by the director within thirty days of receipt of the director's denial of a waiver or variance request; and
 - (2) Present significant, relevant information not previously submitted to the director by the provider of the HCS because it was not available to the provider of the HCS at the time the waiver or variance request was filed; or
 - (3) Demonstrate that there have been significant changes in factors or circumstances relied upon by the director in reaching the initial decision.
 - (4) A decision on an appropriately filed request for reconsideration shall be issued within forty-five days of the director's receipt of the request for reconsideration and all information determined necessary by the director to make a decision..
 - (5) The reconsideration process is an informal procedure not subject to Chapter

119. of the Revised Code. The director's decision on reconsideration is final.

- (F) The new provider of the HCS shall provide the service in compliance with all provisions of Chapter 3701-84 of the Administrative Code, unless a waiver or variance is granted for all provisions not met.

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CERTIFIED ELECTRONICALLY

Certification

06/11/2012

Date

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