

3793:6-1-01

**Department withholding funds.**

- (A) The Ohio department of alcohol and drug addiction services may withhold from a board or an alcohol and drug addiction program as defined in division (A)(5) of section 3793.01 of the Revised Code all or part of the state and federal funds allocated or granted by the department for a specific program for any of the following:
- (1) Failure of the program to comply with rules adopted by the Ohio department of alcohol and drug addiction services,
  - (2) Failure of the program to comply with provisions of state or federal law, including federal regulations.
- (B) If a program is in violation of any of the provisions in paragraph (A) of rule 3793:6-1-01 of the Administrative Code, the Ohio department of alcohol and drug addiction services shall identify the areas of the program's noncompliance and the action necessary to achieve compliance and shall offer technical assistance to the program and the board to assist the program to achieve compliance.
- (C) The Ohio department of alcohol and drug addiction services shall give the program written notice by certified mail, return receipt requested, if it intends to withhold funds. The notice shall include:
- (1) The standard(s) with which the program was found to be in non-compliance and/or other reason(s) for the action.
  - (2) The section(s) of the law or rule(s) involved.
  - (3) A statement informing the program that it is entitled to a hearing if it requests it within thirty days of the time of the mailing of the notice.
  - (4) A statement that at the hearing, the program's representative may appear in person and/or be represented by its attorney or may present its position, arguments or comments in writing and at the hearing it may present evidence and examine witnesses appearing for and against it. A copy of the notice shall be mailed to the attorney or other representative of record representing the program and to the board.
- (D) If a program requests a hearing, the Ohio department of alcohol and drug addiction services shall set the date, time and place for the hearing within fifteen days, but not earlier than seven days, after the program has requested a hearing unless otherwise agreed upon by both the department and the program. A copy of the hearing notice

shall be mailed to the program's representative or its attorney and to the board.

- (1) The Ohio department of alcohol and drug addiction services shall conduct the adjudication hearing following the procedures in section 119.09 of the Revised Code and among other things may appoint a referee or hearing examiner to conduct the proceedings and make recommendations as appropriate. The referee or hearing examiner shall make the appropriate recommendation within thirty days upon completion of the hearing.
  - (2) The Ohio department of alcohol and drug addiction services shall provide the program a certified copy of its decision by certified mail, return receipt requested and the board a copy by regular mail.
  - (3) If the Ohio department of alcohol and drug addiction services' decision after the hearing is to withhold funding, the program shall be informed of its right to appeal and file its notice of appeal of the decision within fifteen days of the mailing of the notice of the department's order.
  - (4) If the program decides to appeal the Ohio department of alcohol and drug addiction services' decision, the program shall appeal the order of the department to the court of common pleas of the county in which the program's place of business is located. The program's original notice of appeal is to be filed with the department and must state the order appealed from and the grounds of the appeal. A copy of the program's appeal must be filed with the court of common pleas in the county in which the appeal is being filed.
  - (5) Within thirty days after receipt of a notice of appeal, the Ohio department of alcohol and drug addiction services shall send to the common pleas court a complete record of the proceedings in the case by certified mail, return receipt requested.
- (E) If the Ohio department of alcohol and drug addiction services has withheld funds under this section, the director of the department of alcohol and drug addiction services shall consult with the applicable board created under Chapter 340. of the Revised Code prior to any reallocation of funding.