

Title 25. State Government

Chapter VIII. Generally, Department of Human Services

Subchapter A. Generally

Part 35. Declaratory Orders

Subpart 1. Generally

25 CAR § 35-101. Purpose and use of declaratory orders.

(a) A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has enforcement authority.

(b) A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances.

(c) A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency.

(d) A petition for declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

Authority. Arkansas Code §§ 20-76-102, 25-15-206.

25 CAR § 35-102. The petition.

The process for obtaining a declaratory order is begun by filing with the Department of Human Services Office of Chief Counsel a petition that provides the following information:

- (1) The name, address, telephone number, and email of the petitioner;
- (2) The name, address, telephone number, and email of the attorney of the petitioner;
- (3) The statutory provision, agency rules, or agency order on which the declaratory order is sought;

(4) Statements of fact setting forth the petitioner's particular set of circumstances that the petitioner alleges may be substantially affected by the statute, rule, or order;

(5) A description of how the statute, rule, or order may substantially affect the petitioner's particular set of circumstances;

(6) The question or issue on which the petitioner seeks a declaratory order;

(7) The signature of the petitioner or petitioner's attorney; and

(8) The date.

Authority. Arkansas Code §§ 20-76-102, 25-15-206.

25 CAR § 35-103. Agency disposition.

(a)(1) The agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts.

(2) Within ninety (90) days of the filing of the petition, the agency will render a final order denying the petition or issuing a declaratory order.

(b)(1) The petitioner may request administrative reconsideration of a declaratory order.

(2) A basis must be provided for the request and the petitioner may submit information or documentation for consideration by the agency.

(c)(1) A request for administrative reconsideration must be submitted to the agency within thirty (30) days of issuance of the declaratory order.

(2) The agency will render a decision within thirty (30) days of the filing of the request for administrative reconsideration.

(d) Requests for administrative reconsideration must be mailed to:

Department of Human Services
Office of Chief Counsel
P.O. Box 1437-Slot S260

Little Rock, AR 72203-1437

Authority. Arkansas Code §§ 20-76-102, 25-15-206.