**Process of Appealing a Formal Agency Hearing Decision in Virginia**

According to the Green Book, if a termination decision is made for a housing voucher at a formal hearing, the next step is to look at judicial review using “state-authorized administrative review procedures.” Green Book, 11.4.4.7.1 Overview. In Virginia, the Administrative Process Act and the Rules of the Supreme Court of Virginia allow recipients of formal hearing decisions from agencies to 1) ask the agency to reconsider the decision and 2) appeal that decision to circuit court. Va. Code § 2.2-4023.1; Va. Sup. Ct. R. 2A:2.

**File Petition for Reconsideration of Formal Hearing Decision within 15 Days of Final Agency Decision**

The Administrative Process Act states that a party can “file a petition for reconsideration of an agency's final decision made pursuant to § 2.2-4020.” Va. Code § 2.2-4023.1(A). § 2.2-4020 refers to formal hearings conducted by agencies, so a party may file a petition to reconsider the final decision of a formal agency hearing within 15 days of the service date of the decision. *Id.* This petition for reconsideration must include “a full and clear statement of the facts pertaining to the reasons for reconsideration, the grounds in support thereof, and a statement of the relief desired.” *Id.*

The filing of this petition does not “suspend the agency decision” or toll the time required for filing an appeal of the decision in accordance with Rule 2A:2 of the Rules of Supreme Court of Virginia unless the agency itself suspends the decision while looking over the petition for reconsideration. *Id.* The agency must review the petition for reconsideration and issue a decision within 30 days, and this decision must “(i) deny the petition, (ii) modify the case decision, or (iii) vacate the case decision and set a new hearing for further proceedings” as well as state the agency’s reasoning for their decision. *Id.* at § 2.2-4023.1(B).

A party does not have to file a petition for reconsideration with an agency in order to exhaust all their administrative remedies before asking for judicial review of an agency decision. *Id.* at § 2.2-4023.1(A). This reconsideration is also not subject to judicial review, but the reconsideration may “be considered by a reviewing court as part of any judicial review of the case decision itself.” *Id.* at § 2.2-4023.1(D).

**File Notice of Appeal with Agency Secretary within 30 Days of Final Agency Decision to Enable Circuit Court Appeal**

While the party impacted by the final agency decision is filing their petition for reconsideration, they are also allowed to ask a circuit court for judicial review of the final agency decision. Va. Sup. Ct. R. 2A:2(a). After a final case decision has been made, the party appealing must file a notice of appeal signed by the party and their counsel with the agency secretary. *Id.* This notice must be provided to the agency secretary within 30 days “after service of the final order in the case decision.” *Id.*

The notice of appeal “must identify the regulation or case decision appealed from, must state the names and addresses of the appellant and of all other parties and their counsel, if any, must specify the circuit court to which the appeal is taken, and must conclude with a certificate that a copy of the notice of appeal has been mailed to each of the parties.” *Id. at* Va. Sup. Ct. R. 2A:2(b). The appellant is also required to provide the agency secretary with a transcript of the hearing testimony if a formal hearing has occurred. Va. Sup. Ct. R. 2A:3(a). Then, within 30 days of filing this notice the appellant must also file a petition to appeal with the clerk of the circuit court. Va. Sup. Ct. R. 2A:4(a). The petition has to “designate the regulation or case decision appealed from, specify the errors assigned, state the reasons why the regulation or case decision is deemed to be unlawful and conclude with a specific statement of the relief requested.” *Id.* At Va. Sup. Ct. R. 2A:4(b).

**Conclusion**

A petition for reconsideration and an appeal to the circuit court can and should be filed immediately following the issuance of the final decision following a formal agency hearing in Virginia. However, a petition for reconsideration does not have to be filed to file for appeal in circuit court, and filing a petition for reconsideration may hurt the circuit court appeal if the decision is not favorable for the appellant because it can then be considered by the circuit court in their decision making.