

1 Client Name
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6 **ARIZONA DEPARTMENT OF ECONOMIC SECURITY**
7 **OFFICE OF APPEALS**

8 In the Matter of:

Case Number:

9 CLIENT NAME,

10 Appellant, Pro Se

PREHEARING MEMORANDUM

11 Vs.

12 Arizona Rehabilitation Services
Administration

13 **INTRODUCTION**

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16 **FACTUAL ALLEGATIONS**

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19 **BURDEN & STANDARD OF PROOF**

20 The Arizona Administrative Code does not specify which party has the burden of
21 proof for Fair Hearings regarding rehabilitation services. A.A.C. R6-4-404(B). The
22 Hearing Officer “shall direct the order of proof.” *Id.* at (B)(6)(b). Where the statute is
23 silent on burden of proof, Arizona courts have concluded that “the allocation of a burden
24 of proof depends, inter alia, on what is fair, what is convenient, who is seeking to change
25 the status quo, and policy considerations such as those disfavoring certain defenses.”
26 *Harvest v. Craig*, 195 Ariz. 521, 524, ¶ 14 (App.Div.1 1999); *citing McCormick on*
27 *Evidence* § 337, at 432 (J. Strong ed., 4th ed.1992). In this case,

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The decision is based on preponderance of the evidence. *Culpepper v. State of Arizona*, 187 Ariz. 431, 437-8, 930 P.2d 508, 514-15 (Ariz. Ct. App. 1997).

Respectfully submitted on [insert date) 2022.

By: _____
Client Name

ORIGINAL of the foregoing e-filed on [insert date] with:

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