

§6310. Appeal of license denial; illness or medical condition

1. Appeal of license denial. A person who is denied a Class I, Class II or Class III lobster and crab fishing license because that person does not meet the eligibility requirements of section 6421, subsection 5, paragraph A; a person who is denied a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license because that person does not meet the eligibility requirements of section 6749-O, subsection 2-A; or a person who is denied a hand fishing scallop license or a scallop dragging license because that person does not meet the eligibility requirements of section 6706, subsection 2 may appeal to the commissioner under this section for a review of that license denial.

[PL 2011, c. 266, Pt. A, §3 (AMD).]

2. Criteria for license issuance on appeal. The commissioner may issue a license on appeal only if the criteria in this subsection are met.

A. A Class I, Class II or Class III lobster and crab fishing license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a license in 1997, 1998 or 1999, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person may not request an appeal under this subparagraph after December 31, 2001; or

(2) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a license in licensing year 2000 or in subsequent years, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition. [PL 2013, c. 319, §1 (AMD).]

B. A handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for that license, and the person documents that the person harvested sea urchins while in possession of the same license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition. [PL 2013, c. 319, §1 (AMD).]

C. A hand fishing scallop license or a scallop dragging license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for that license, and the person documents that the person harvested scallops while in possession of the same license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition. [PL 2013, c. 319, §1 (AMD).]

For the purposes of this subsection, "family member" means a spouse, sibling, child's spouse, parent by blood, parent by adoption, spouse's parent, child by blood, child by adoption, stepchild, stepparent, grandchild or grandparent.

[RR 2021, c. 2, Pt. B, §48 (COR).]

3. Appeals process. A person appealing a license denial under this section must request the appeal in writing. The commissioner shall hold a hearing on the appeal if a hearing is requested in writing within 10 days of the initial request for appeal. If a hearing is requested, it must be held within 30 days of the request unless a longer period is mutually agreed to in writing, and it must be conducted in the Augusta area.

A hearing held under this subsection is informal. At the hearing, the appellant may present any evidence concerning the criteria listed in subsection 2 that might justify issuing a license to the person, and the commissioner may request any additional information the commissioner considers necessary. Any medical information provided as part of the appeal is a confidential record for the purposes of Title 1, section 402, subsection 3, paragraph A.

[PL 1999, c. 643, §1 (NEW).]

4. Issuance on appeal. Issuance of a license on appeal is at the discretion of the commissioner, except that a license may not be issued unless the criteria in subsection 2 are met. Decisions of the commissioner must be in writing.

[PL 1999, c. 643, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 643, §1 (NEW). PL 2009, c. 188, §1 (AMD). PL 2009, c. 188, §3 (AFF). PL 2011, c. 266, Pt. A, §§3, 4 (AMD). PL 2013, c. 319, §1 (AMD). RR 2021, c. 2, Pt. B, §48 (COR).

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