Chapter 15 | Due Process

Introduction

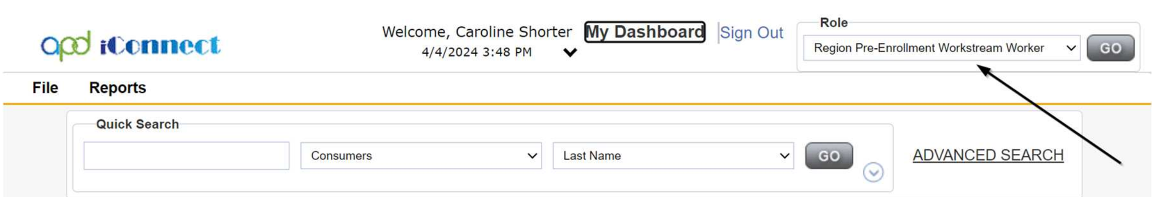
In some instances, when a Consumer has been denied access to Waiver Funding, provided limited funding, denied services and/or has been partially approved for services. In these cases, the Consumer has the right to exercise his/her rights to Due Process by requesting a hearing. A hearing can be requested for cases in which an action, intended action or failure to act would adversely affect the individual's eligibility for services provided by APD or where action on a claim for such assistance or services is unreasonably delayed. These hearings are generally referred to as Fair Hearings in federal regulations.

Requests for hearings can be made at the local office or directly to the Office of Appeal Hearings. The office provides a hearing conducted by an independent and neutral hearing officer who writes a decision based on program rules and regulations, the facts or evidence produced during the hearing, and post-hearing submissions, if submitted, in the form of a Final Order.

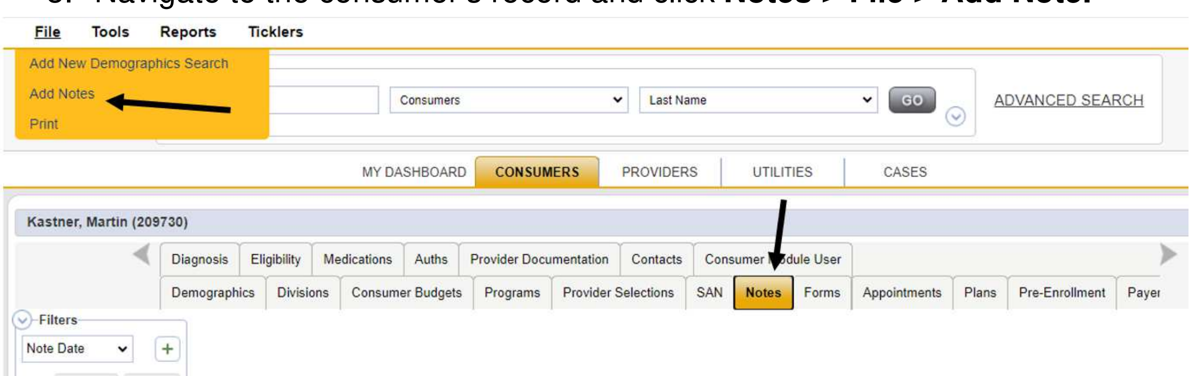
Request to Exercise Due Process Hearing

1. If a Consumer is denied APD services, he/she is entitled to appeal the decision. The Consumer will reach out to the Region office via email or regular mail to exercise their right to a Fair Hearing

2. Upon receiving the consumer's request for a Fair Hearing, the Region Worker will log into iConnect and set Role = Region Pre-Enrollment or Waiver Workstream Worker. Click **Go.**

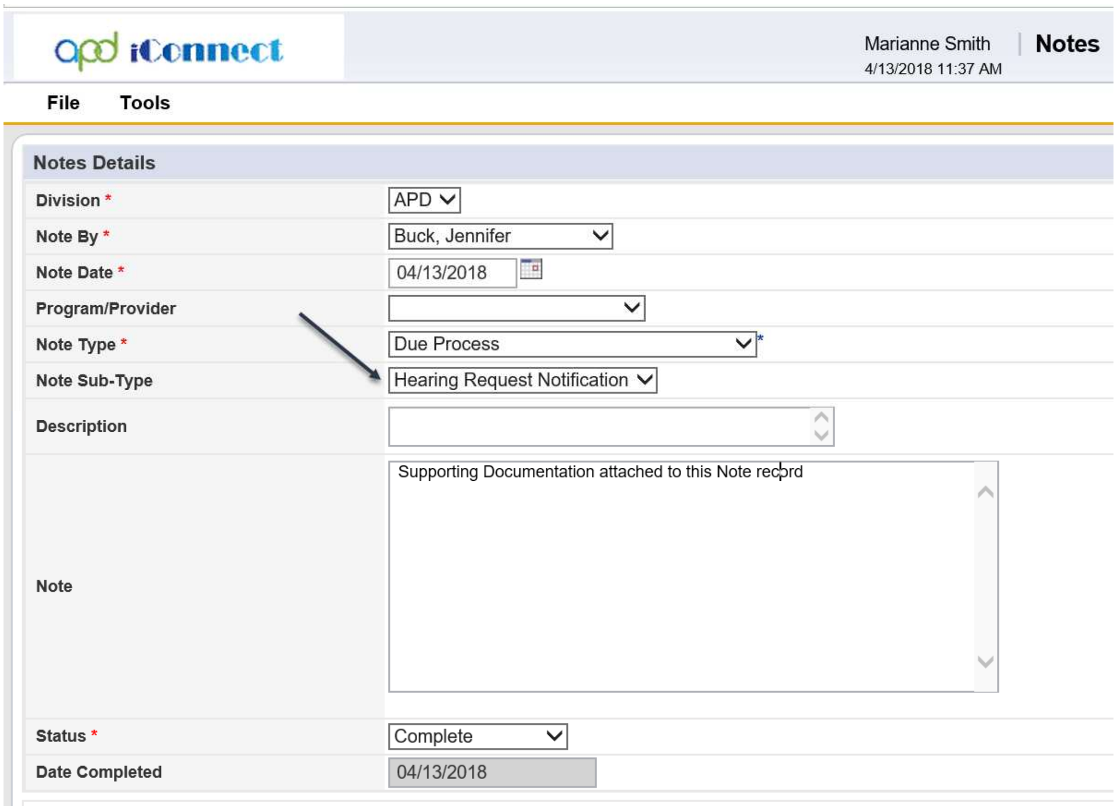


3. Navigate to the consumer's record and click **Notes > File > Add Note.**



4. In the new Note record, update the following fields:
    a. Division = APD
    b. Note Type = Due Process
    c. Note Subtype = Hearing Request Notification
    d. Status = Complete
    e. Attach all supporting documentation

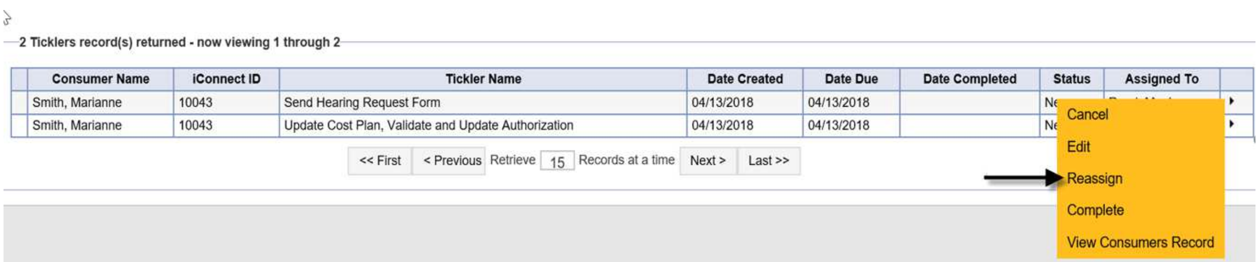
5. When finished, click **File** > **Save and Close Note**



6. Upon saving the Note, a Workflow Wizard will trigger with the following Ticklers:
    a. Send Hearing Request Form - *Assigned to the user (Region Waiver Workstream Lead) who will reassign it to the hearing point of contact in the region.* Due Immediately
    b. Update Budget - *Assigned to secondary worker,* Due Immediately. This tickler is specific to due process for consumers on the waiver. This tickler is not relevant to due process when resulting from denial of eligibility, denial of crisis, etc. This tickler should be cancelled if not applicable to the specific due process request.
    c. Update Cost Plan Validate and Update Authorization - *Assigned to WSC,* Due Immediately (but cannot update until Budget is updated). This tickler is only relevant to consumers on the waiver. It should be cancelled if the specific due process request is not about planned services.

7. The Send Hearing Request Form tickler displays for the Region Worker.

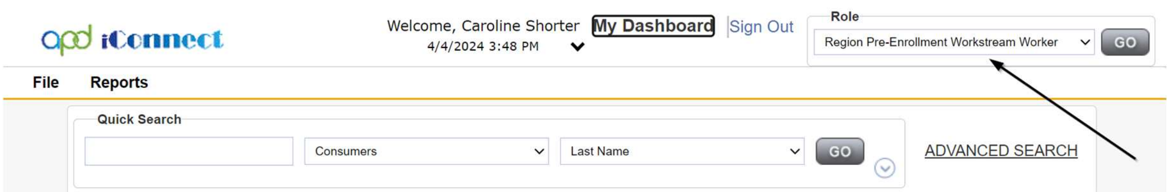
8. Reassign the tickler to the Hearing point of contact in the region. Hover over the arrow next to the tickler and click **Reassign**.



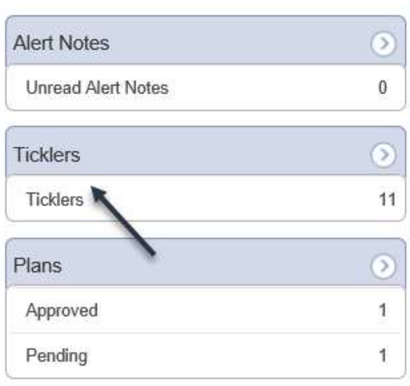
9. In the Reassign Tickler window, search for the hearing contact for the region. click **Search**, and upon finding a match click on the name.

10. The tickler is reassigned.

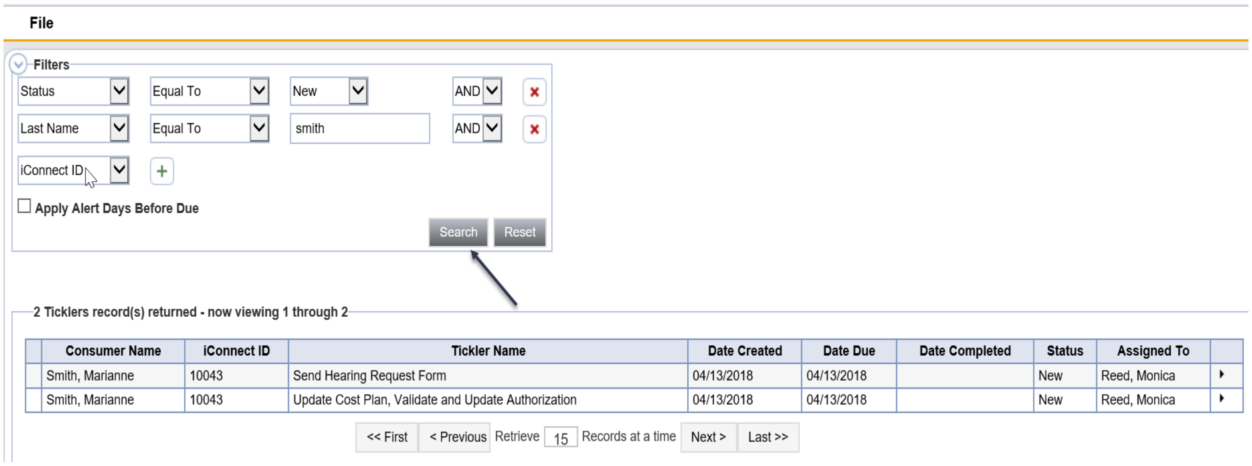
11. The assigned Hearing point of contact for the region will monitor their **My Dashboard** for Ticklers related to Due Process. To begin, log into iConnect and set Role = Region Pre-Enrollment or Waiver Workstream Worker. Click **Go.**



12. On the **My Dashboard,** find the Consumers Section and scroll down to the Ticklers Panel. Click on **Ticklers Due** to access the Tickler Queue:



a. Use the multi variable search to narrow down the results in the Tickler Queue. Click **Search.**

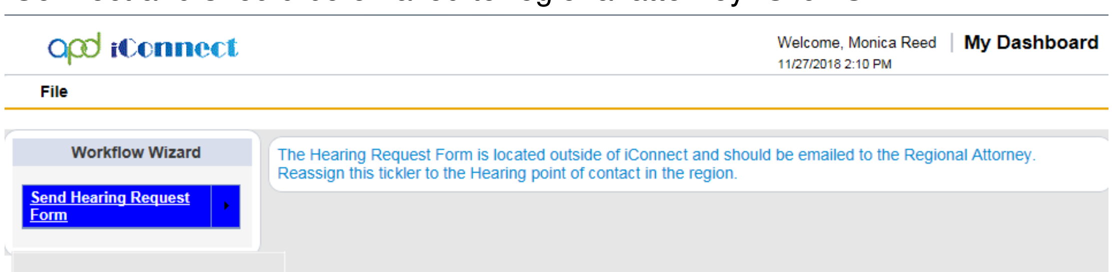


Tip

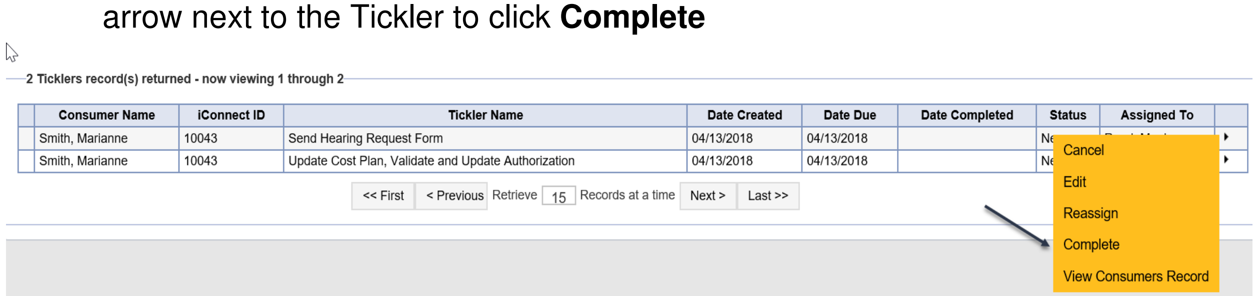
*When searching for a future Tickler, remember to clear the check box next to Apply Alert Days Before Due prior to clicking **Search**.*

13. Click on the Tickler called Send Hearing Request Form to open it.

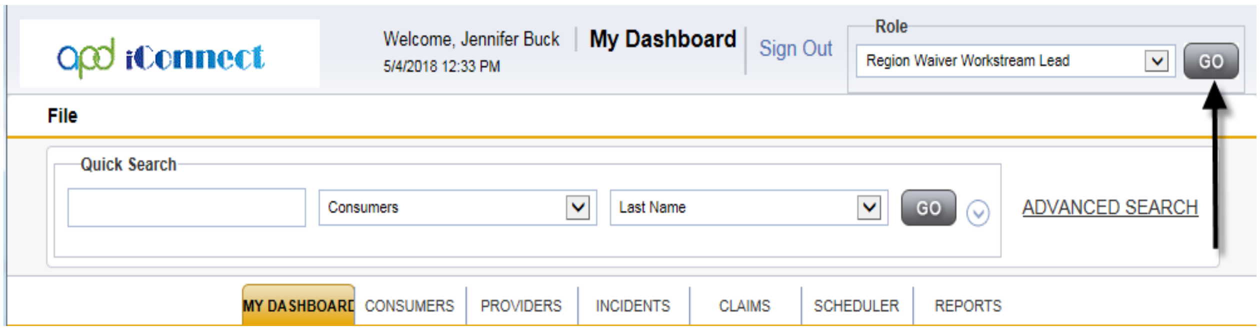
14. A Message Tickler will appear - Hearing Request Form is located outside of iConnect and should be emailed to regional attorney. Click **OK.**



15. Once the Hearing request form is emailed to the regional attorney, hover over the arrow next to the Tickler to click **Complete**

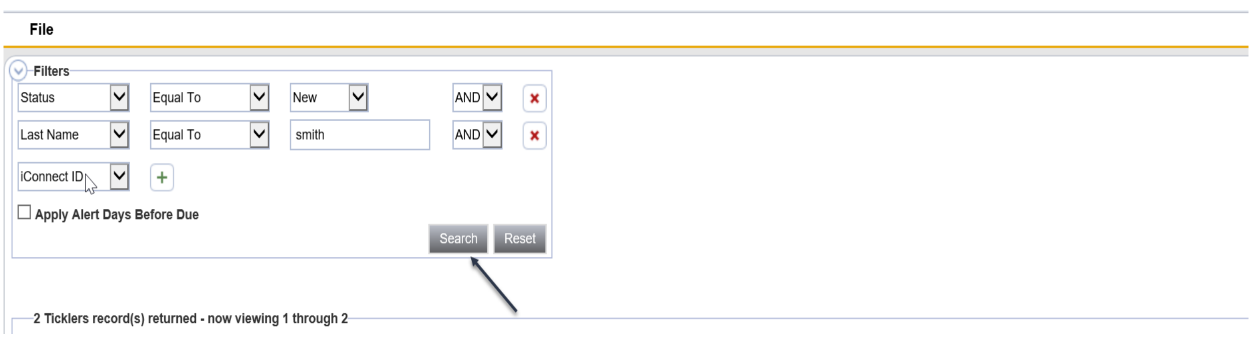


16. The Region Staff (Secondary Worker), will monitor their **My Dashboard** for Ticklers related to Due Process. To begin, log into iConnect and set Role = Region Waiver Workstream Lead. Click **Go.**



17. On the **My Dashboard,** find the Consumers Section and scroll down to the Ticklers Panel. Click on **Ticklers Due** to access the Tickler Queue:

a. Use the multi variable search to narrow down the results in the Tickler Queue. Click **Search.**



Tip

*When searching for a future Tickler, remember to clear the check box next to Apply Alert Days Before Due prior to clicking **Search**.*

18. In the Tickler Queue, find the second Tickler called Update Budget.

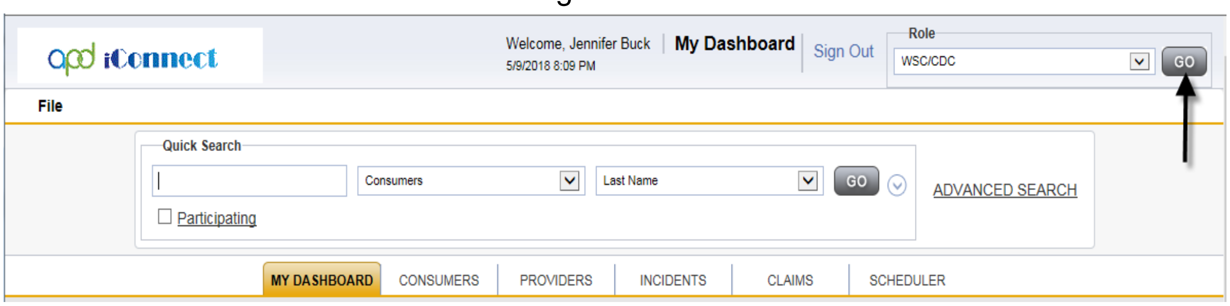
a. This Tickler is only relevant for Consumers on the waiver. If this specific Due Process request is not about Planned Services, hover over the arrow next to the Tickler to click **Cancel.**
b. If the Consumer is on the Waiver, hover over the arrow next to the Tickler to click **Reassign.** Select the appropriate Region Staff that handles Budget Entry. That user will be able to access the Tickler from their **My Dashboard.**

19. A Message Tickler will appear - Update applicable Budget prior to Notice of Hearing Rights being sent to Consumer. Click **OK.**

20. Navigate to the appropriate Budget and update it accordingly. See Chapter 9 | Consumer Budget

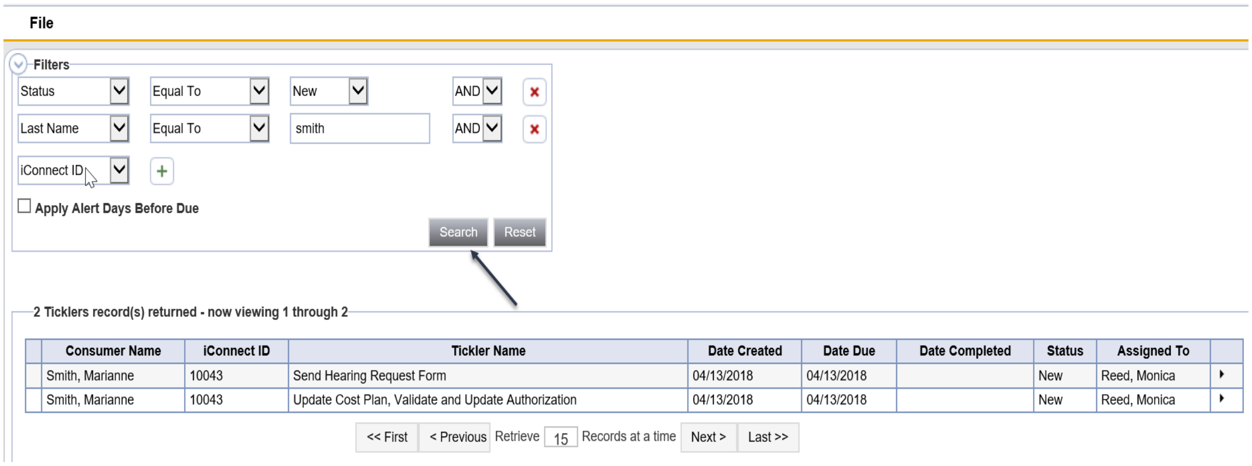
21. When finished, hover over the arrow next to the Tickler to click **Complete.**

22. The Primary Worker (Pre-Enrollment or Waiver Support Coordinator) will monitor their **My Dashboard** for Ticklers related to Due Process. To begin, log into iConnect and set Role = WSC/CDC or Region Pre-Enrollment Workstream Worker. Click **Go.**



23. On the **My Dashboard,** find the Consumers Section and scroll down to the Ticklers Panel. Click on **Ticklers Due** to access the Tickler Queue:

a. Use the multi variable search to narrow down the results in the Tickler Queue. Click **Search.**

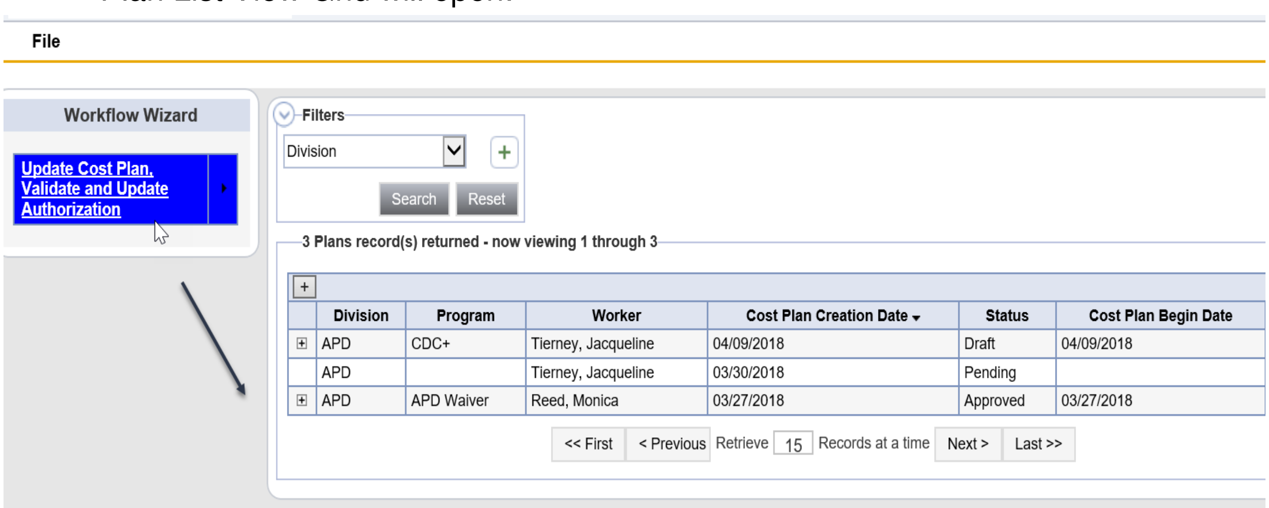


Tip

*When searching for a future Tickler, remember to clear the check box next to Apply Alert Days Before Due prior to clicking **Search**.*

24. In the Tickler Queue, find the Tickler called Update Cost Plan, Validate and Update Plan Authorization
    a. This Tickler is only relevant for Consumers on the waiver. If this specific Due Process request is not about Planned Services, hover over the arrow next to the Tickler to click **Cancel.**

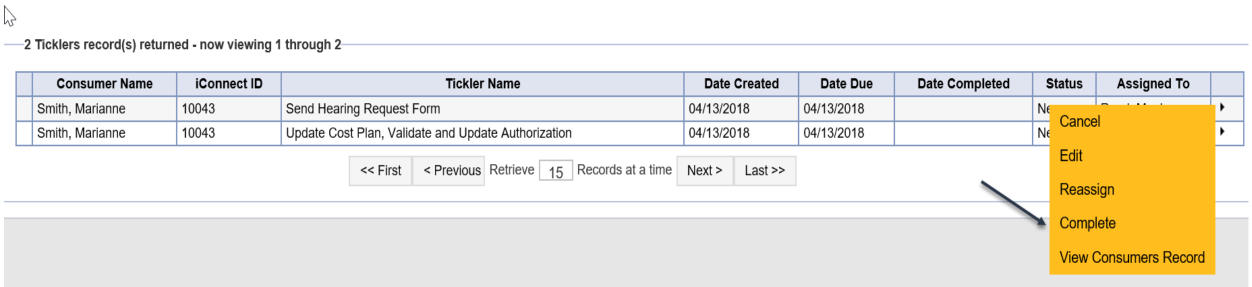
25. If the Consumer is on the Waiver, click to open the Tickler and the consumer's Cost Plan List View Grid will open:



26. In the Cost Plan List View Grid, click on the applicable Cost Plan to open it and update fields as necessary

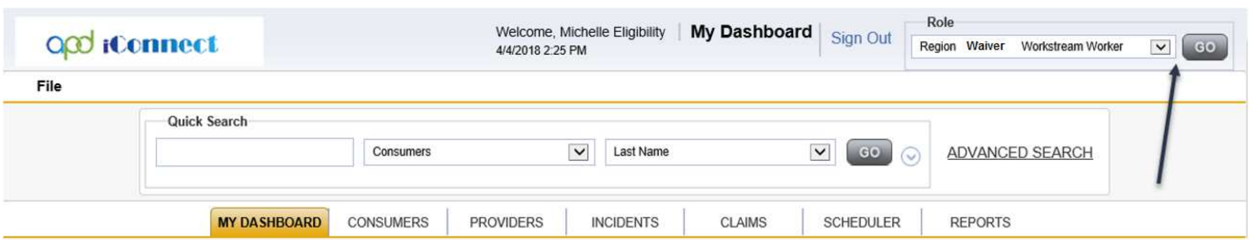
27. When finished, click **File > Save and Close Plan**

28. Hover over the arrow next to the Tickler to click **Complete**



29. The Office of Appeal Hearings will assign an Appeal Number and issue Acknowledgement of Hearing and notify APD of the number via email.

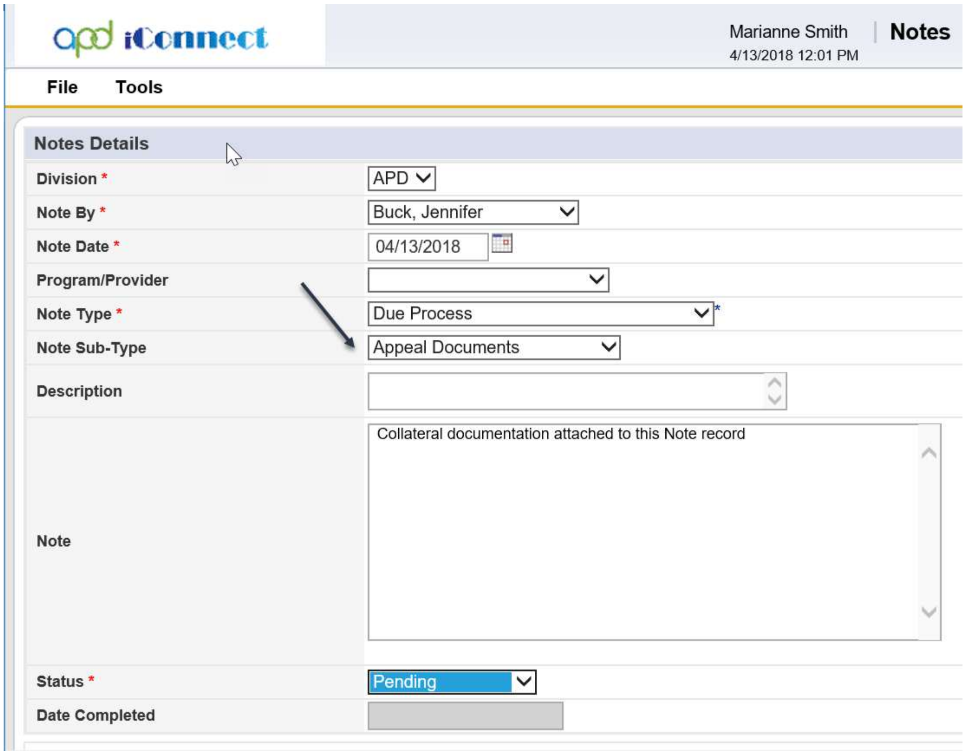
30. Upon receiving the e-mail from the Office of Appeal Hearings, the Hearing point of contact for the Region will log into iConnect and set Role = Region Waiver Workstream Worker. Click **Go.**



31. Navigate to the consumer's record and click **Notes > File > Add Note.**

32. In the new Note record, update the following fields:
    a. Division = APD
    b. Note Type = Due Process
    c. Note Subtype = Appeal Documents
    d. Status = Pending
    e. Route the Note to the appropriate Secondary Worker by clicking the ellipsis next to Add Note Recipient. In the pop-up window, type in the Worker's Last Name and click **Search**. In the Search results, click on the matching Worker Name to route the note to that recipient.
    f. Attach any collateral documentation

33. When finished, click **File > Save and Close Note**



34. The Secondary Worker will monitor their **My Dashboard** for Note records related to Due Process Appeal Documents. To do so, log into iConnect and set Role = Pre-Enrollment or Waiver Workstream Lead. Click **Go.**

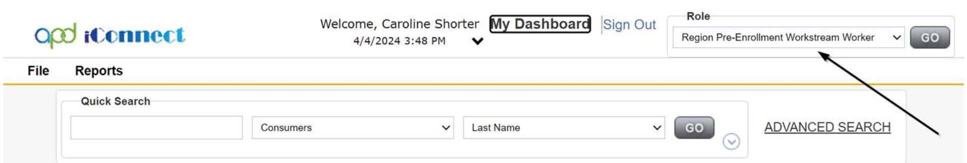
35. On the **My Dashboard**, locate the Consumers panel and scroll down to the Notes section. Click on the **Pending** link to open a queue of Notes with Status = Pending

36. In the Pending Notes queue, open the Note record with Note Type = Due Process and Note Subtype = Appeal Documents.
37. Review the contents of the Note to determine if Legal Issues record can be created. Update the Note accordingly.

a. Route the Note back to the appropriate Region Worker by clicking the ellipsis next to Add Note Recipient. In the pop-up window, type in the Worker's Last Name and click **Search**. In the Search results, click on the matching Worker Name to route the note to that recipient.
b. Set Status = Complete

38. Click **File > Save and Close Notes.**

39. The Region Worker will monitor their **My Dashboard** for Note records related to Appeal Documents. To begin, log into iConnect and set Role = Region Pre-Enrollment Workstream Worker. Click **Go.**

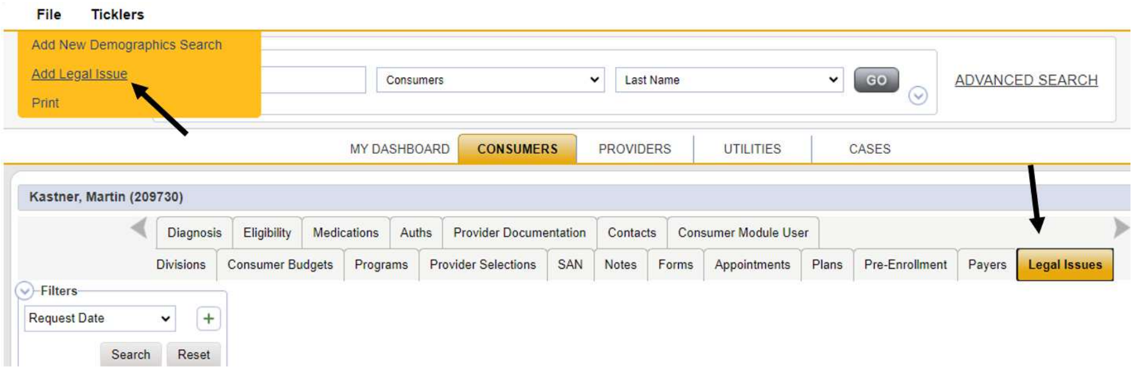


40. On the **My Dashboard**, locate the Consumers panel and scroll down to the Notes section. Click on the **Complete** link to open a queue of Notes with Status = Complete.

a. Use the multi variable search to narrow down the search results. Open the Note record with Note Type = Due Process and Note Subtype = Appeal Documents

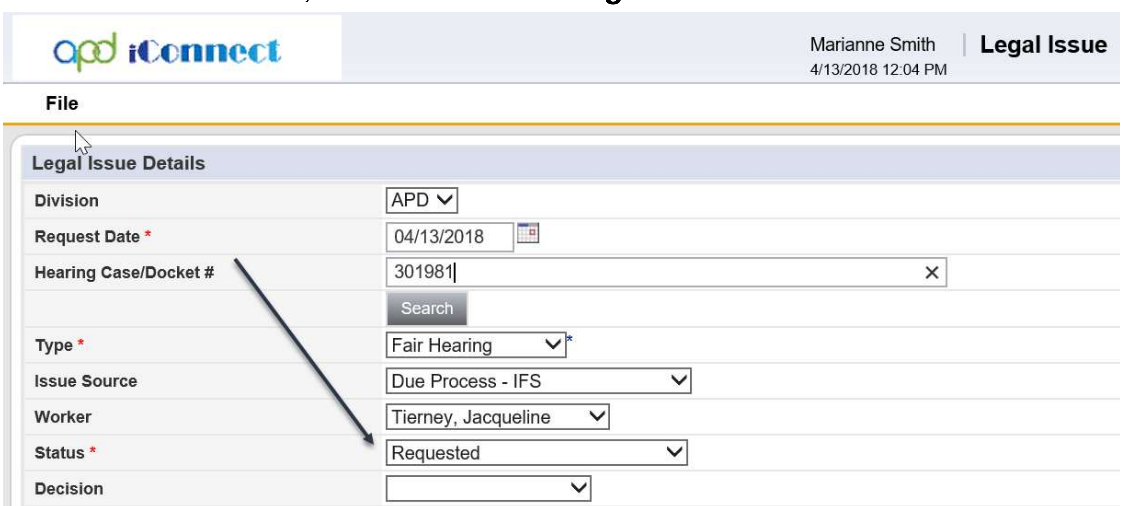
41. Review the contents of the Note. Proceed to create the Legal Issues record per the instructions below.

42. To document the Fair Hearing in the consumer's record, navigate to the **Legal Issues** tab and click **File > Add Legal Issue.**

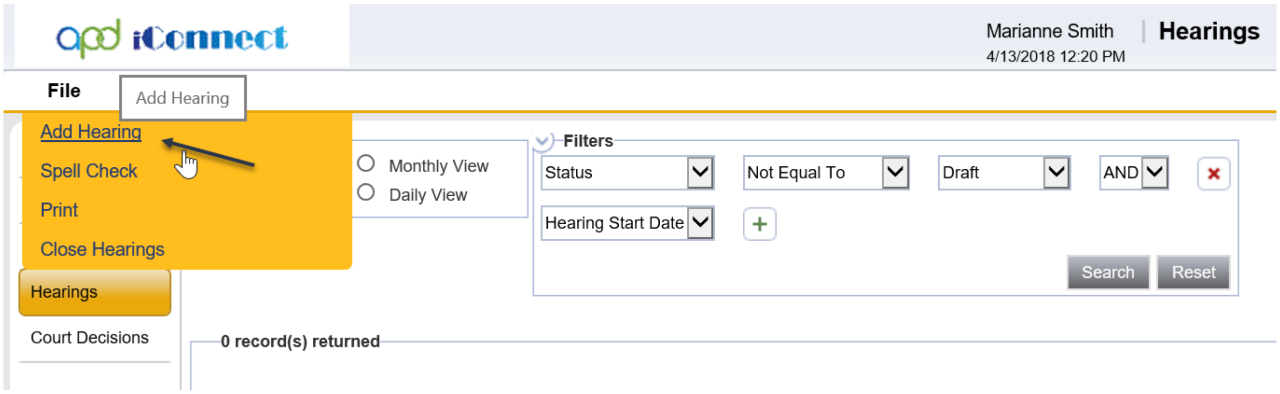


43. In the new Legal Issue record, update the following fields:
    a. Request Date = Enter the date the original request was received
    b. Type = Fair Hearing
    c. Issue Source = what prompted Fair Hearing request
    d. Status = Requested
    e. Worker = Program Reviewer or Assessor

44. When finished, click **File > Save Legal Issue**

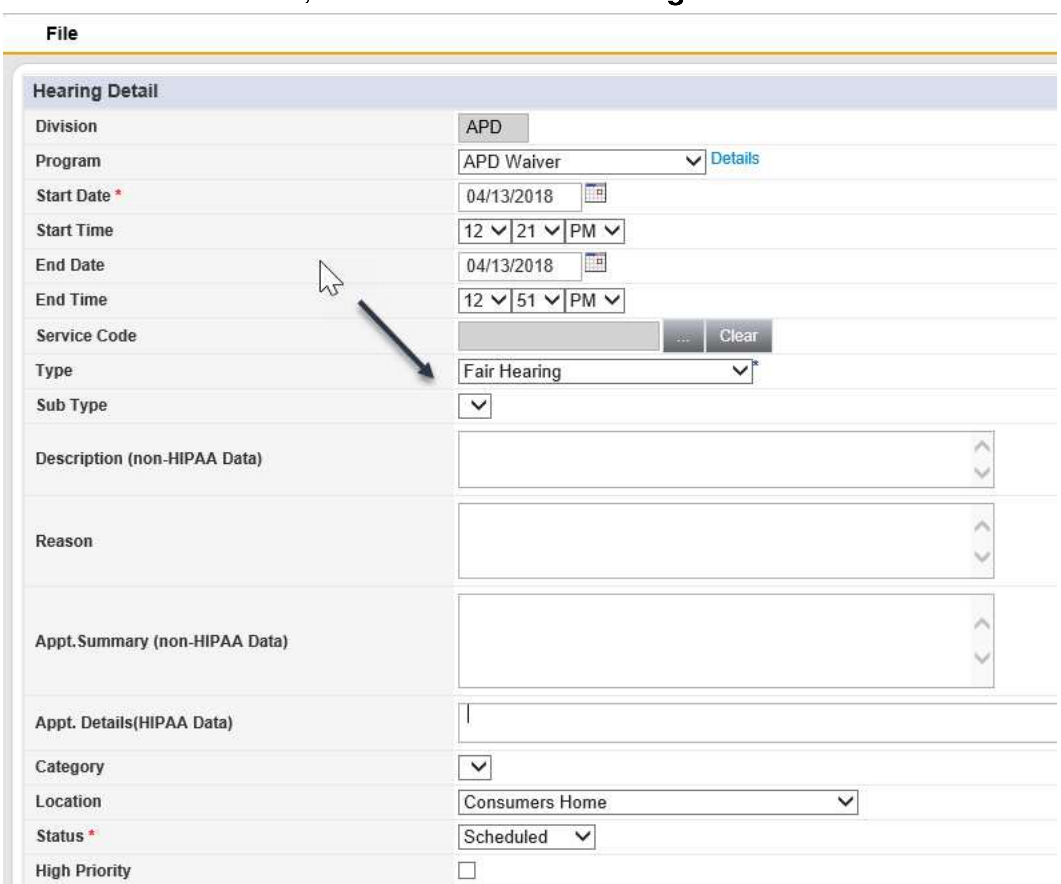


45. In the Legal Issue record, the **Hearings** tab will appear. Click on the **Hearings > File > Add Hearing.**



46. In the new Hearing record, update the following fields:
    a. Type = Fair Hearing
    b. Start Date
    c. Start Time
    d. End Date
    e. End Time
    f. Status = Scheduled

47. When finished, click **File > Save Hearing**

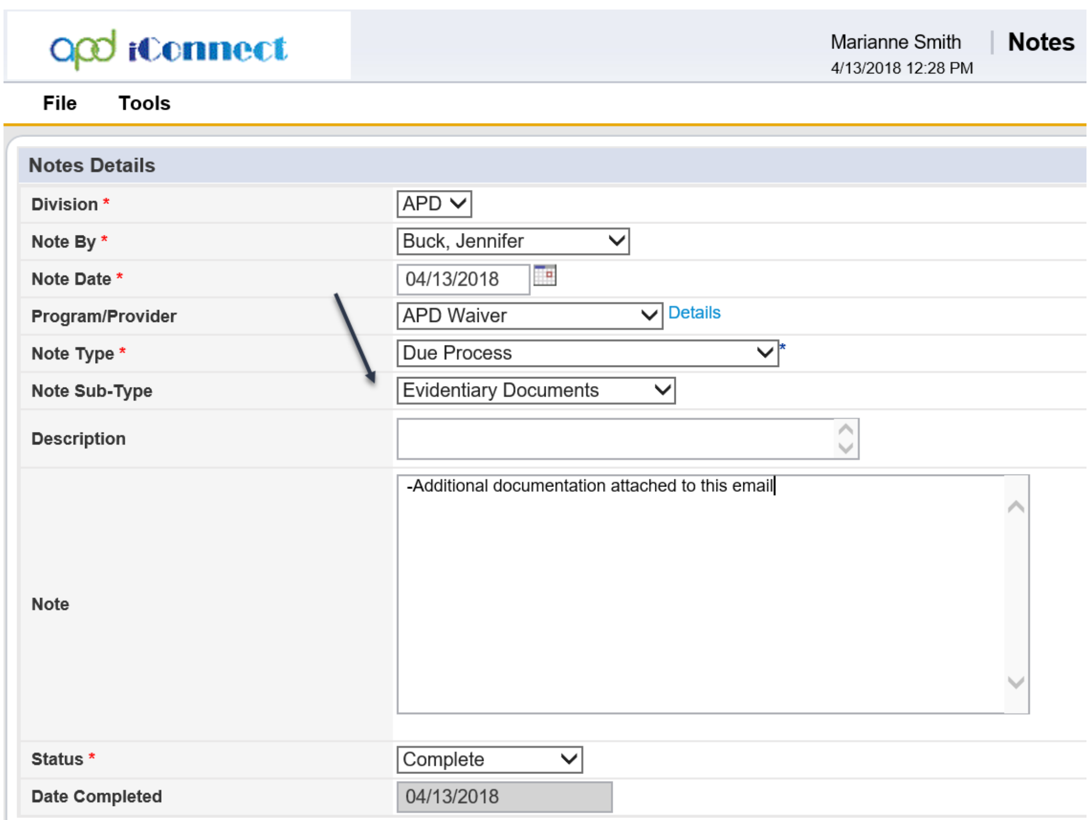


48. In the new Hearing record, Click on the **New Hearing Participant** subpage:
    a. Use the filters to find workers in the system who will serve as witnesses. Click on matching records and click **Add** to add them to the Hearing appointment
    b. When finished, click **File > Save New Hearing Participant** and **File > Close New Hearing Participant**

49. To upload any additional supporting documents to the consumer's record, click on the **Notes** tab and click **File > Add Note.**

50. In the new Note record, update the following fields:
    a. Note Type = Due Process
    b. Note Subtype = Evidentiary Documents
    c. Status = Complete
    d. Attach any additional documents

51. When finished, click **File > Save and Close Note**



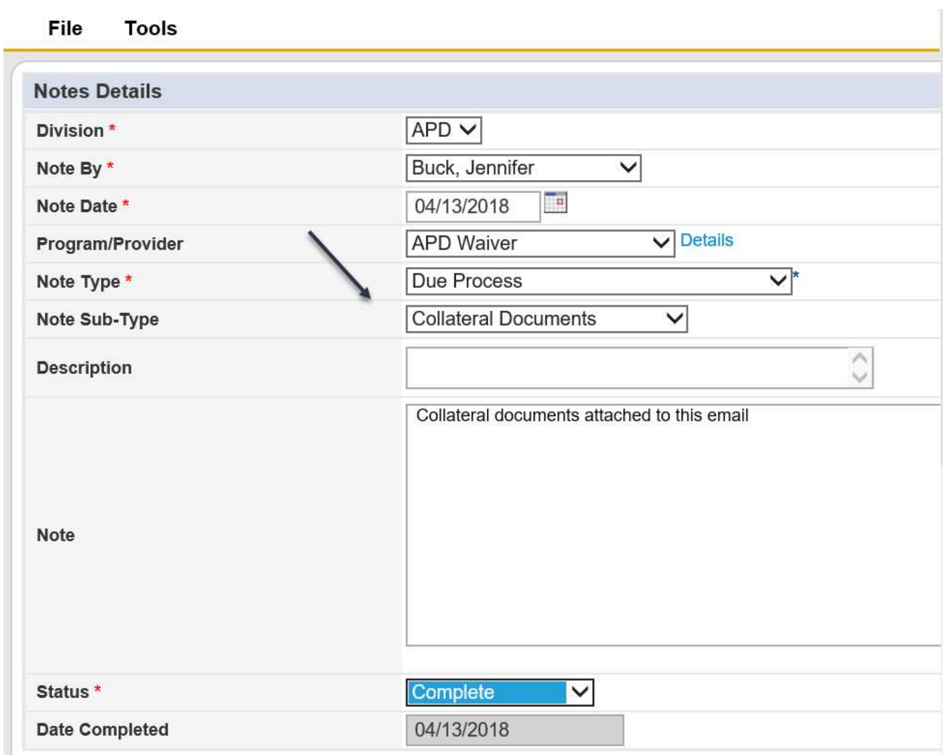
Motion to Dismiss or Withdraw Due Process Request

1. In the event the region receives a Motion to Dismiss or Withdraw, the document(s) will need to be attached to a Note. To do so, the Region Worker will navigate to the consumer's record and click on **Notes > File > Add Note.**

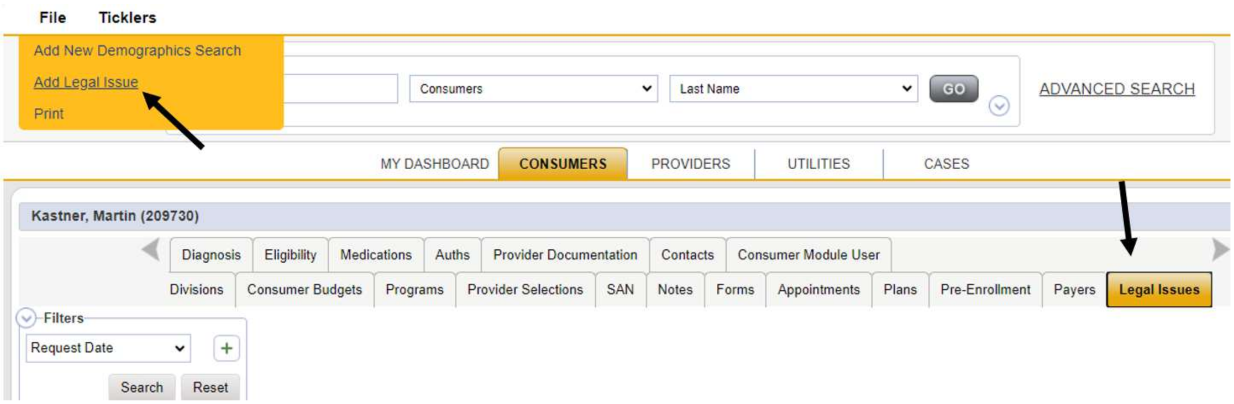
2. In the new Note record, update the following fields:
    a. Division = APD
    b. Note Type = Due Process
    c. Note Subtype = Collateral Documents
    d. Status = Complete

3. Attach all relevant documentation.

4. When finished, click **File > Save and Close Note**

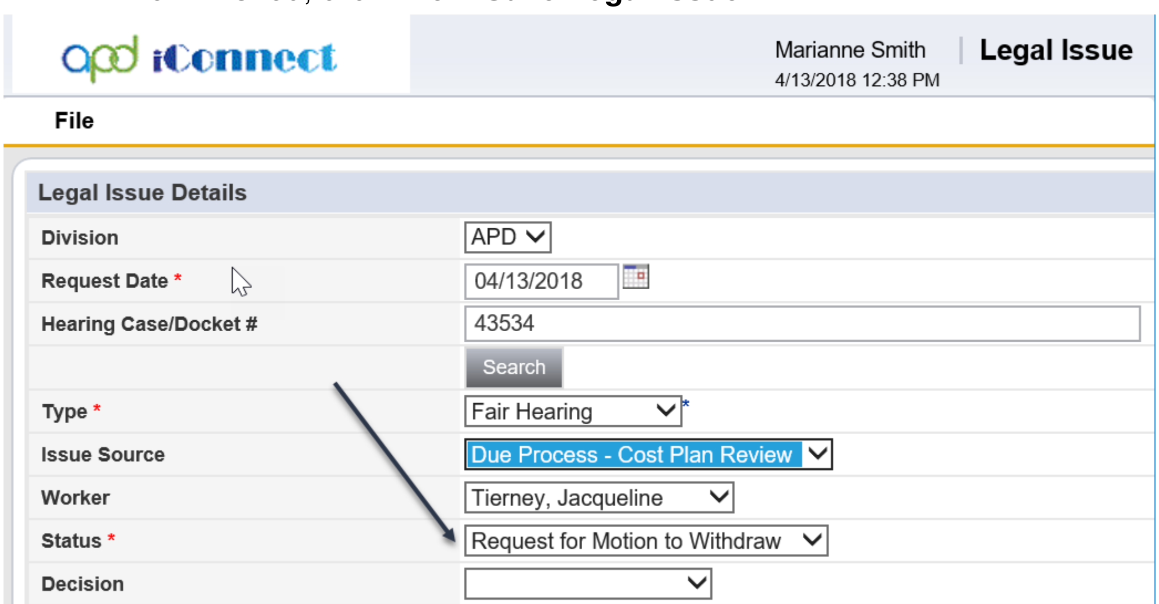


5. On the consumer's record, navigate to the **Legal Issues** tab and click **File > Add Legal Issues:**



6. In the new Legal Issue record, update the following fields:
    a. Request Date = Update as appropriate
    b. Type = Fair Hearing
    c. Issue Source = what prompted Fair Hearing request
    d. Status = Request for Motion to Withdraw OR Request for Motion to Dismiss
    e. Worker = Program Reviewer or Assessor

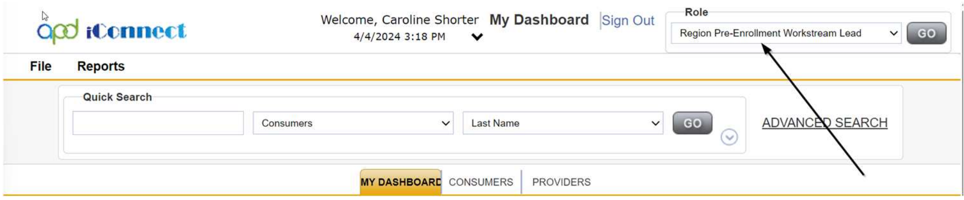
7. When finished, click **File > Save Legal Issue**



8. Upon saving the Legal Issue record, a Workflow Wizard will trigger with the following Ticklers:
    a. Update Cost Plan, Validate and Update Authorization - *Assigned to Primary Worker (Waiver Support Coordinator)*
    b. Update Budget - *Assigned to Secondary Worker (Pre-Enrollment or Waiver Workstream Lead)*, who will complete the task or reassign to the appropriate designee with the Budget Entry role. Pre-Enrollment Workstream leads will cancel this tickler.

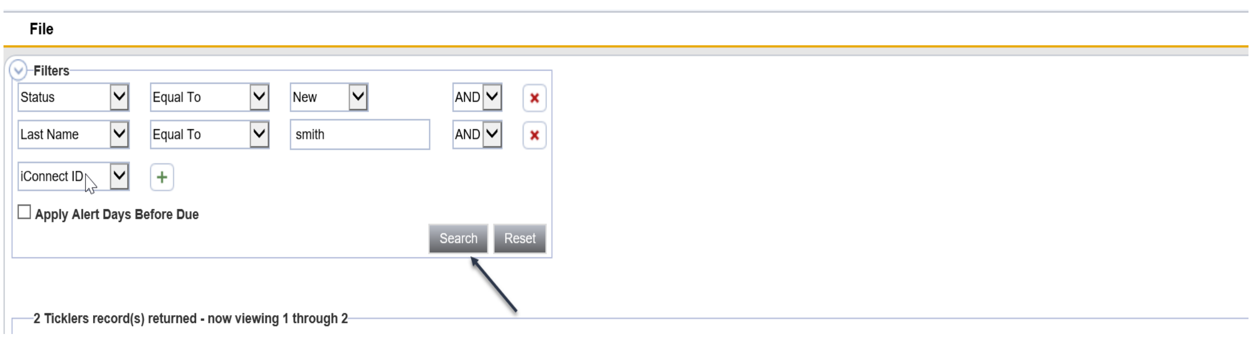
c. Update Legal Issue Status - *Assigned to Secondary Worker (Pre-Enrollment or Waiver Workstream Lead)*, Due Immediately

9. The Region Staff (Secondary Worker), will monitor their **My Dashboard** for Ticklers related to Due Process. To begin, log into iConnect and set Role = Region Waiver Workstream Lead. Click **Go.**



10. On the **My Dashboard,** find the Consumers Section and scroll down to the Ticklers Panel. Click on **Ticklers Due** to access the Tickler Queue:

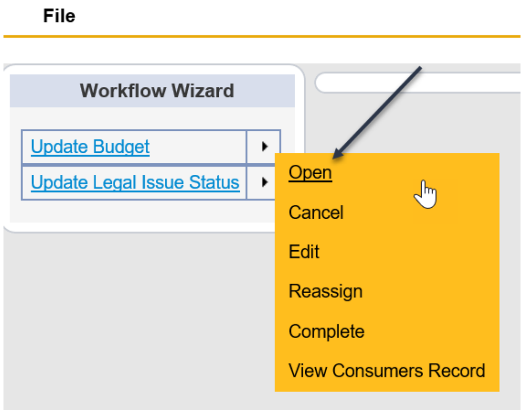
a. Use the multi variable search to narrow down the results in the Tickler Queue. Click **Search.**



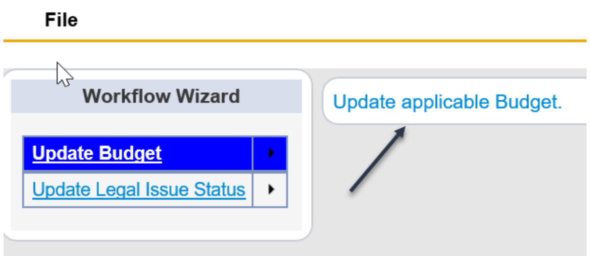
Tip

When searching for a future Tickler, remember to clear the check box next to Apply Alert Days Before Due prior to clicking ***Search****.*

11. Select the tickler, called Update Budget to Open it.



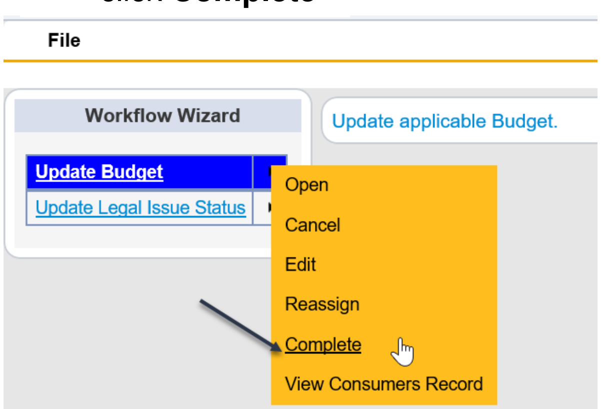
12. Upon doing so a Message Tickler will open that says Update Applicable Budget



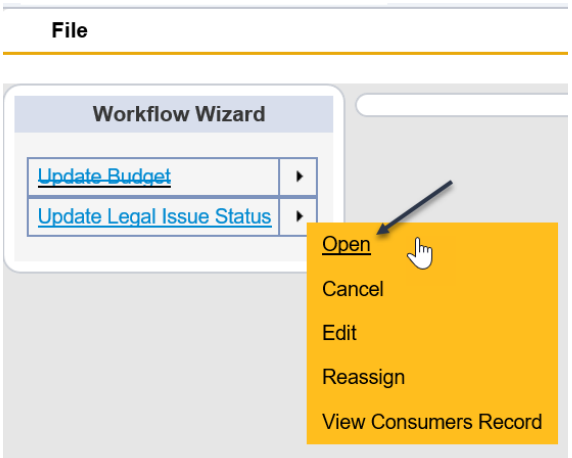
   a. Note that the Budget only needs to be updated if Due Process was initiated because of an Agency action regarding waiver services. If this is not the case, hover over the arrow next to the Tickler to click **Cancel.**
   b. If the Due Process request was initiated because of an Agency action regarding waiver services, update the Budget.

13. To do so, navigate to the consumer's record and click on the **Consumer Budget** tab > open the appropriate Budget and update it accordingly. See Chapter 9 | Consumer Budget

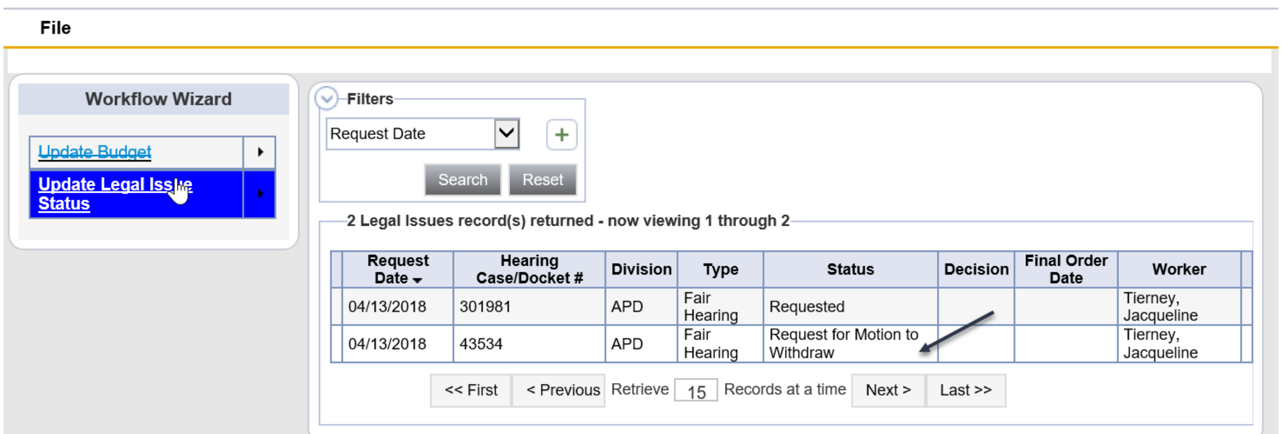
14. Back in the Workflow Wizard window, hover over the arrow next to the Tickler to click **Complete**



15. In the Tickler queue, hover over the arrow next to the Tickler Update Legal Issue Status to click **Open.**



16. Upon doing so, the Legal Issues List View Grid will open



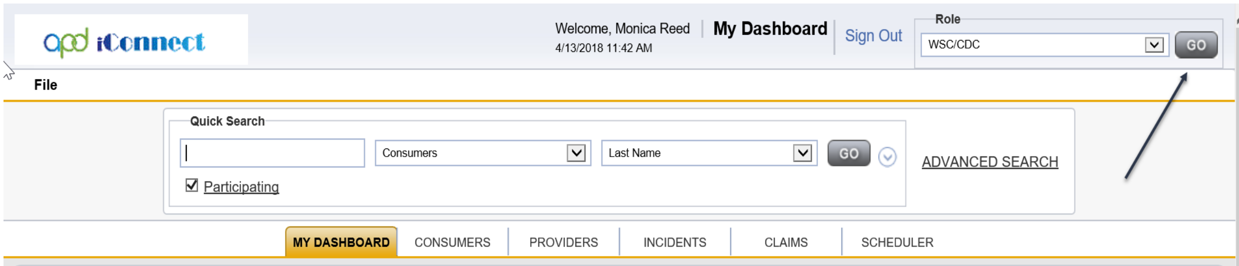
17. In the consumer's Legal Issues List View grid, click to open the relevant Legal Issue and update the Status and other fields as applicable.

18. When finished, click **File > Save and Close Legal Issue**

19. Back in the Workflow Wizard window, hover over the arrow next to the Tickler to click **Complete**

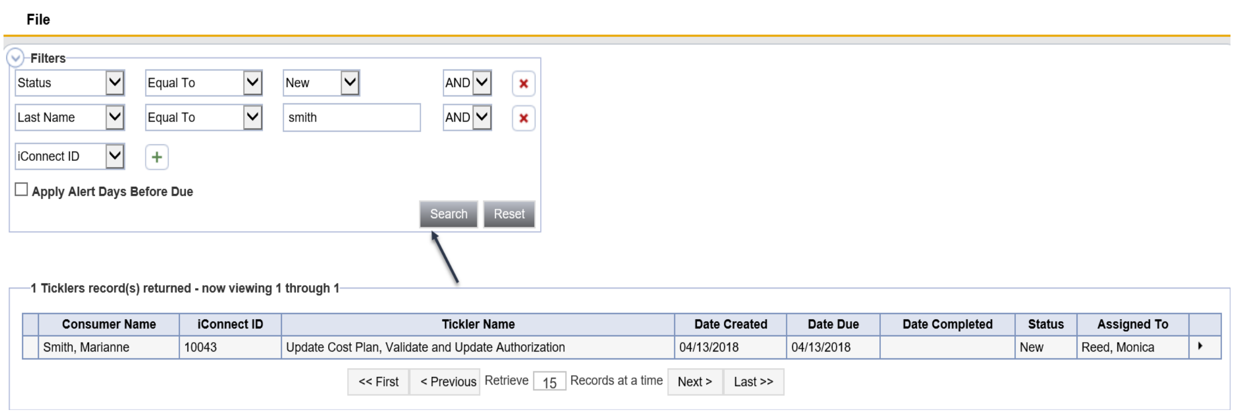
20. Click **File > Close Workflow Wizard**

21. The Waiver Support Coordinator will monitor their **My Dashboard** for Ticklers related to Due Process. To begin, log into iConnect and set Role = WSC/CDC. Click **Go.**



22. On the **My Dashboard,** find the Consumers Section and scroll down to the Ticklers Panel. Click on **Ticklers Due** to access the Tickler Queue:

   a. Use the multi variable search to narrow down the results in the Tickler Queue. Click **Search.**

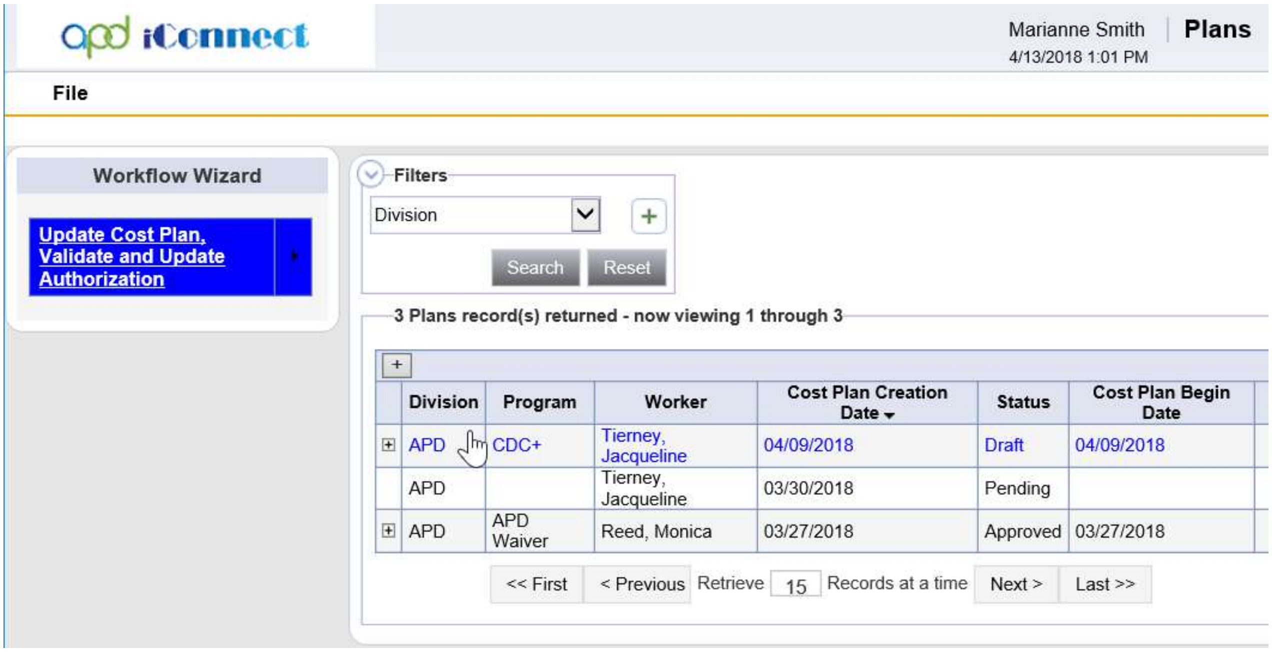


Tip

*When searching for a future Tickler, remember to clear the check box next to Apply Alert Days Before Due prior to clicking **Search**.*

23. Click on the Tickler called Update Cost Plan, Validate and Update Authorization to open it.

24. Upon doing so, the consumer’s Cost Plan List View Grid will open



25. In the Cost Plan List View Grid, click on the applicable Cost Plan to open it and update fields as necessary

26. When finished, click **File > Save and Close Plan** and **File > Close Workflow Wizard**

Fair Hearing

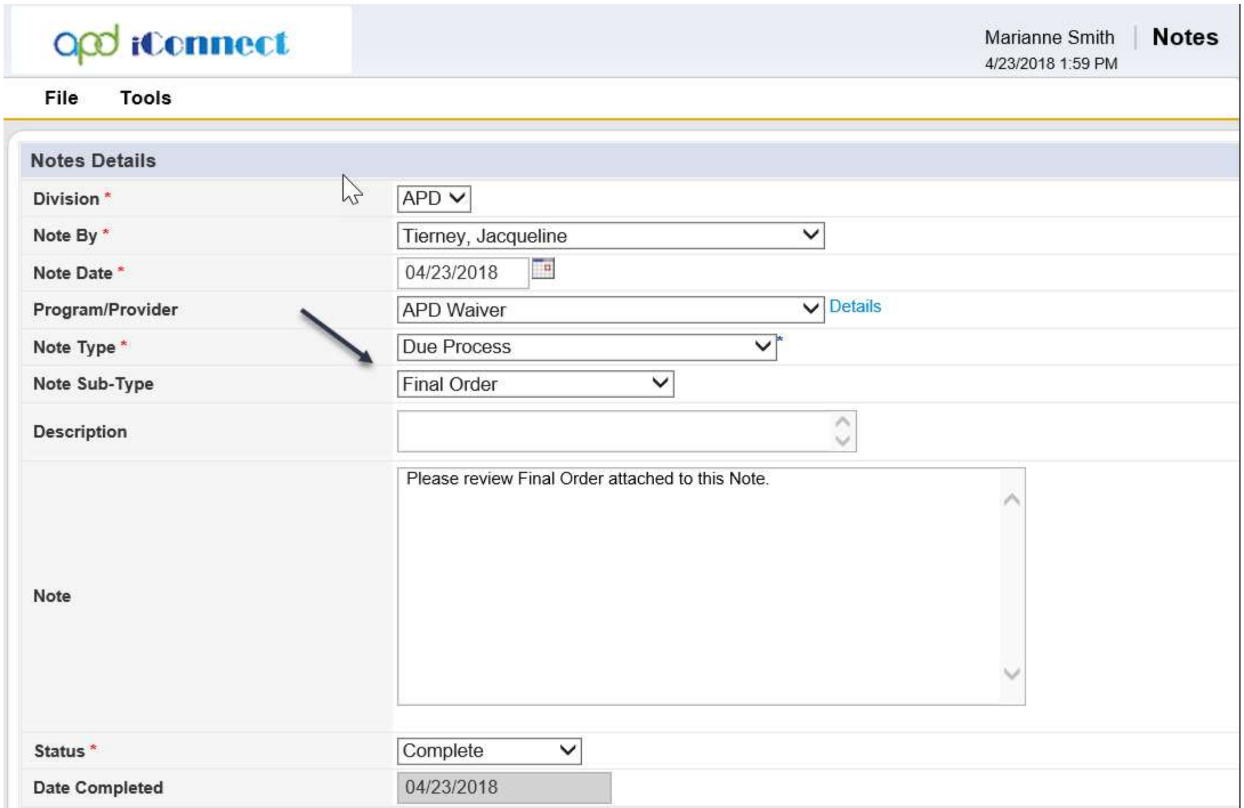
1. When the assigned Workstream Worker or Workstream Lead receives a copy of the Final Order issued in response to the Due Process request, the worker will document via note and attach a copy of the Final Order. To begin, the worker will log into iConnect and set Role Region Waiver Workstream Worker or Lead. Click **Go.**

2. To provide all necessary parties with the Final Order, navigate to the consumer’s record and click **Notes > File > Add Note.**

3. In the new Note record, update the following fields:
   a. Note Type = Due Process
   b. Note Subtype = Final Order
   c. Status = Complete
   d. Attach the Final Order to the Note
   e. Route the Note to the appropriate recipients (ROM DROM, Waiver Work Stream Lead) by clicking the **Ellipsis** button next to Add Note Recipient. In the pop-up

window, type in the Worker's Last Name and click **Search**. In the Search results, click on the matching Worker Name to route the note to that recipient.

4. When finished, click **File > Save and Close Note**

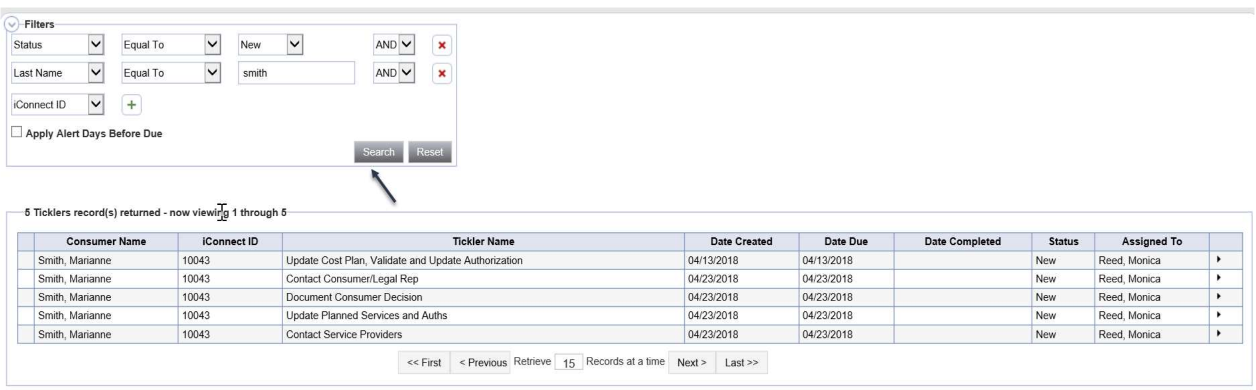


5. Upon saving the Note record, a Workflow Wizard will trigger with the following Ticklers:
   a. Run the Algorithm, Update Budget, and Hearing Status - *Assigned to the Secondary Worker, (WL or Waiver Workstream Lead)* Due Immediately
   b. Contact Consumer/Consumer Rep – *Assigned to the Primary Worker,* Due Immediately
   c. Document Consumer Decision - *Assigned to the Primary Worker,* Due Immediately
   d. Update Planned Services and Auths - *Assigned to the Primary Worker,* Due Immediately
   e. Create/Update Service Authorizations - *Assigned to the Primary Worker,* Due Immediately
   f. Contact Service Providers - *Assigned to the Primary Worker,* Due Immediately

6. To complete the first Tickler, the Secondary Worker (Pre-Enrollment or Waiver Workstream Lead) will log into iConnect and set Role = Pre-Enrollment or Waiver Workstream Lead). Click **Go.**

7. On the **My Dashboard,** finding the consumer's section and scrolling down to the Ticklers Panel. Click on the **Ticklers** link:

   a. In the Tickler Queue, use the multi variable search to narrow the results down to the relevant Ticklers. Click **Search.**



Tip

*When searching for a future Tickler, remember to clear the check box next to Apply Alert Days Before Due prior to clicking **Search**.*

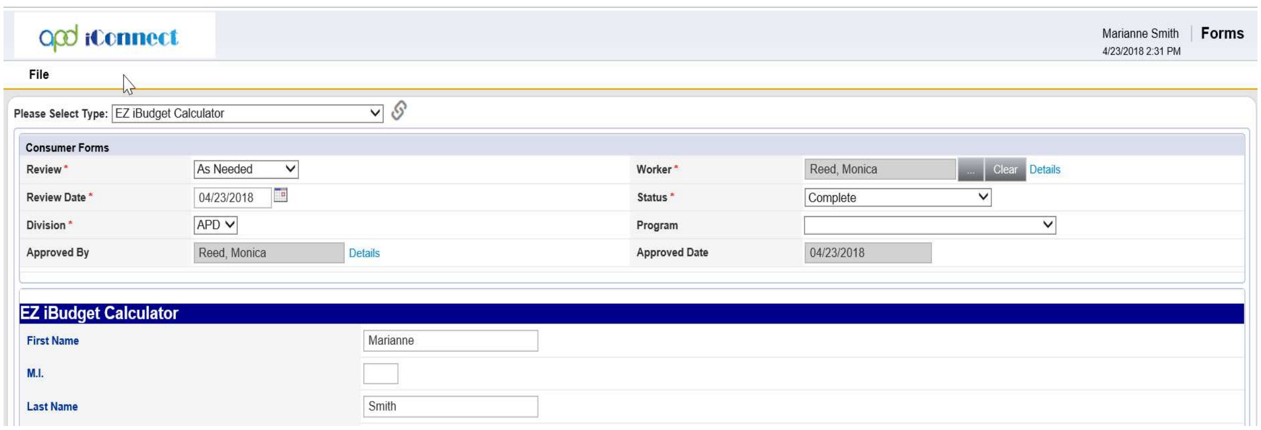
8. In the Tickler Queue, click to open the Tickler called Run Algorithm, Update Budget and Hearing Status.

9. Upon doing so, a Message Tickler will open - Run Algorithm, Update Budget and Hearing Status

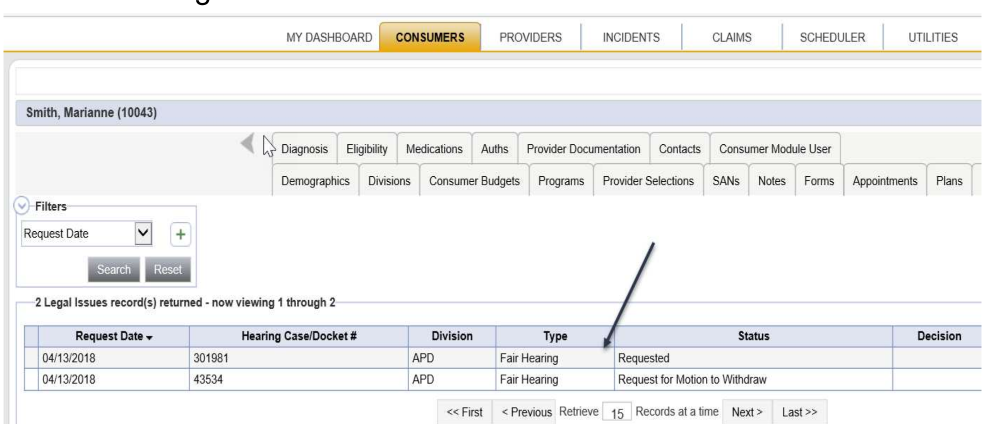
   NOTE: Running the algorithm is rare when receiving a final order. If this is not needed, Cancel the tickler.

10. To complete the Tickler, begin by navigating to the consumer's record and click on **Forms > File > Add Form.**
    a. Set Please Select Type = EZ iBudget Calculator.
    b. Complete all relevant fields

11. When finished, click **File > Save and Close Form**



12. Navigate to the consumer's record, click on the **Legal Issues** tab > click to open the relevant Legal Issue record > click on the **Hearings** tab > click to open the relevant Hearing record



13. Update the Status field

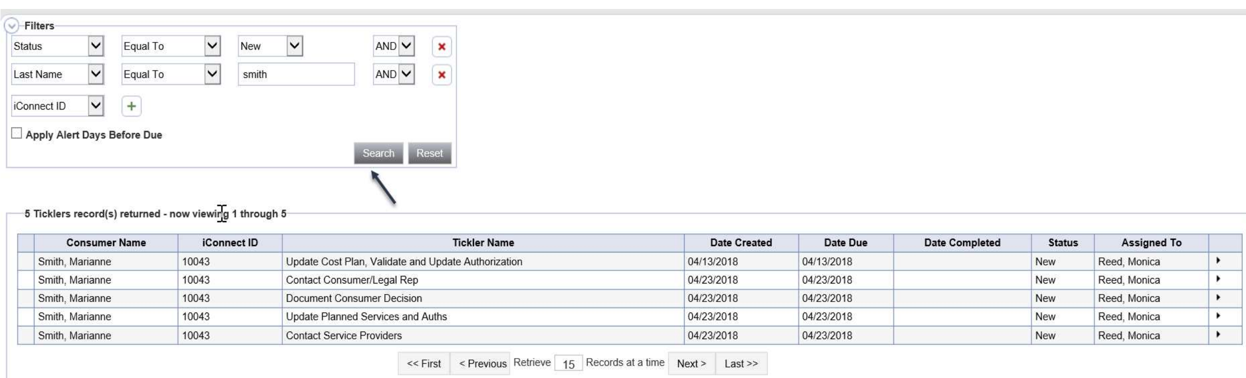
14. When finished, click **File > Save and Close Hearing**

15. Back in the Tickler Queue, hover over the arrow next to the Tickler to click **Complete**

16. To complete the remaining Ticklers, the Primary Worker (Waiver Support Coordinator) will log into iConnect and set Role = WSC/CDC. Click **Go.**

17. On the **My Dashboard,** finding the consumer's section and scrolling down to the Ticklers Panel. Click on the **Ticklers** link:

a. In the Tickler Queue, use the multi variable search to narrow the results down to the relevant Ticklers. Click **Search.**



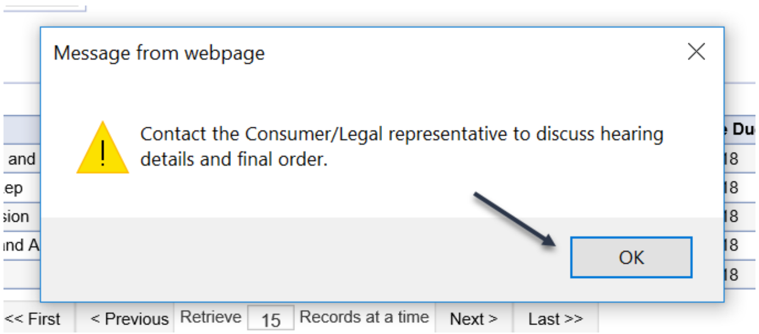
Consumer Name	iConnect ID	Tickler Name	Date Created	Date Due	Date Completed	Status	Assigned To
Smith, Marianne	10043	Update Cost Plan, Validate and Update Authorization	04/13/2018	04/13/2018		New	Reed, Monica
Smith, Marianne	10043	Contact Consumer/Legal Rep	04/23/2018	04/23/2018		New	Reed, Monica
Smith, Marianne	10043	Document Consumer Decision	04/23/2018	04/23/2018		New	Reed, Monica
Smith, Marianne	10043	Update Planned Services and Auths	04/23/2018	04/23/2018		New	Reed, Monica
Smith, Marianne	10043	Contact Service Providers	04/23/2018	04/23/2018		New	Reed, Monica

Tip

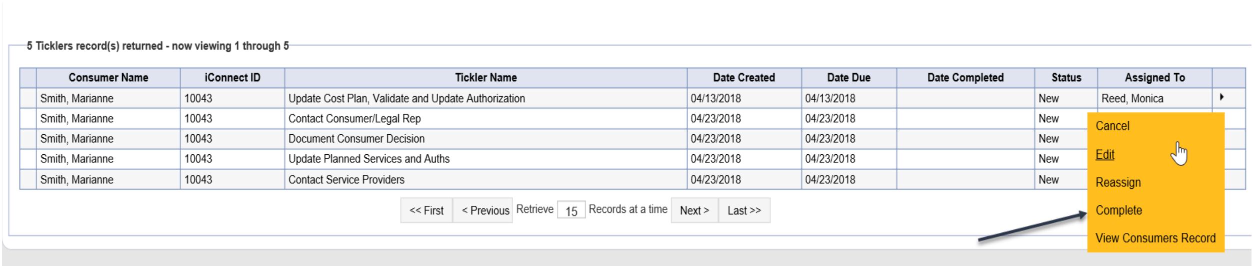
When searching for a future Tickler, remember to clear the check box next to Apply Alert Days Before Due prior to clicking ***Search****.*

18. In the Tickler Queue, click to open the Tickler called Contact Consumer/Legal Rep.

19. Upon doing so, a Message Tickler will open - Contact Consumer/Legal Representative to discuss hearing details and final order. Click **OK.**



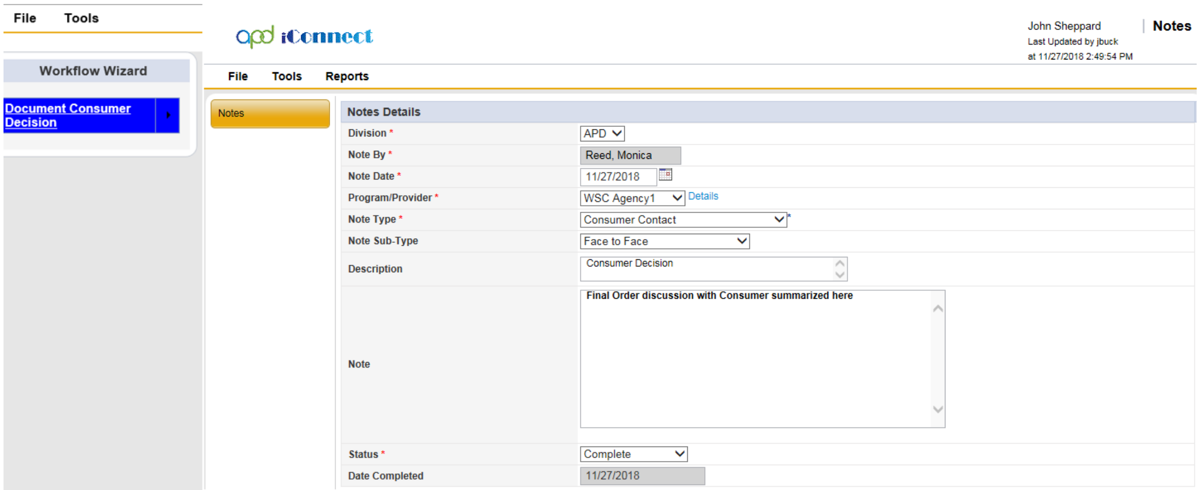
20. When finished, hover over the arrow next to the Tickler to click **Complete**



21. Back in the Tickler Queue, click to open the Tickler called Document Consumer Decision.

22. Upon doing so, a new Consumer Note record will open. In the new Consumer Note record, update the following fields:
    a. Division = APD
    b. Note Type = Due Process
    c. Note Subtype = Consumer Update
    d. Description = Consumer Decision
    e. Note = summarize the discussion with the consumer/legal representative explain the impact of the Final Order. If the consumer doesn't agree with the Final order, he/she can take the necessary steps to have a judicial review.
    f. Status = Complete

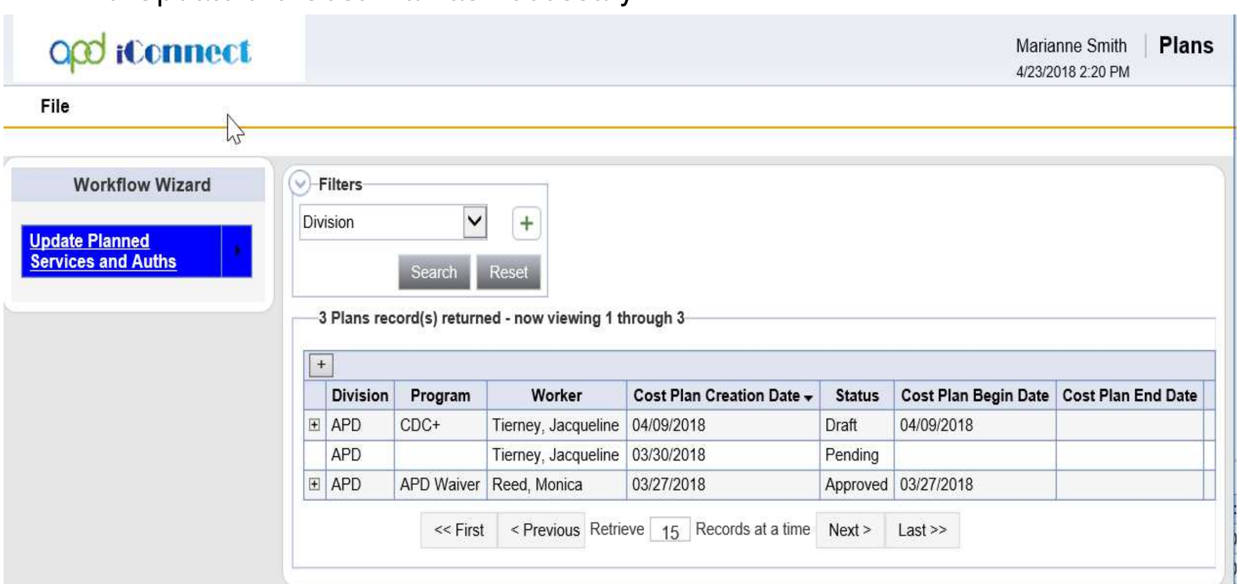
23. When finished, click **File > Save Notes** and **File > Close Workflow Wizard**



24. Back in the Tickler Queue, click to open the Tickler Update Planned Services and Auths.

25. Upon doing so, the consumer's Cost Plan List View Grid will open.

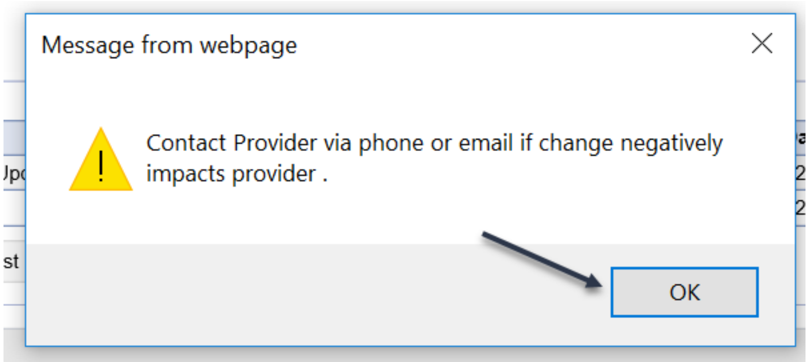
26. In the consumer's Cost Plan List View Grid, click on the relevant Cost Plan to view it. Update the Cost Plan as necessary.



27. When finished, click **File > Save and Close Plan** and **File > Close Workflow Wizard**

28. Back in the Tickler Queue, click to open the Tickler called Contact Service Providers

29. Upon doing so, a Message Tickler opens - Contact Provider via phone or email if change negatively impacts Provider



30. When finished, hover over the arrow next to the Tickler to click **Complete**

31. If the Consumer doesn't agree with the Final Order, he/she can take necessary steps to request a Judicial Review (non-iConnect process).