

**MEDICAL ASSISTANCE AND MEDICAID WAIVERS:
APPEALS, COMPLAINTS, AND GRIEVANCES**
Prepared by the Disability Rights Network of Pennsylvania
800-692-7443 (toll-free voice)
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This outline gives you information on Medical Assistance appeals, grievances, and complaints. **PLEASE NOTE: THIS INFORMATION IS NOT INTENDED TO BE LEGAL ADVICE APPLICABLE TO SPECIFIC FACTUAL SITUATIONS.**

I. MEDICAL ASSISTANCE APPEALS PROCESS: FEE-FOR-SERVICE AND MANAGED CARE (INCLUDING MEDICAID WAIVERS)

A. Denial Notice

Application, equipment, or services are denied.

Reason for denial – Department of Public Welfare/Medical Assistance managed care health plan/ Waiver agency must send a written decision. Specific reason for denial must be in the letter, and the reason cannot change at the fair hearing.

You can still make an appeal even if you are not sent a letter. State in your appeal that you were not sent a decision in writing.

B. Making Your Appeal

***Within 10 days** from date on written denial notice to have services continue

Within 30 days from date on written denial notice

Within 60 days of any decision for which no written notice was sent and was not required to be sent

Within 6 months of any decision for which no written notice was sent but was required to be sent

Some exceptions may be made for “good cause” if your appeal was filed late, but do not delay!

Your appeal letter:

- Certified mail and keep a copy for yourself
- Request face-to-face fair hearing
- State that the equipment or service is medically necessary

- Request lengthy hearing
 - mention any times that you are unavailable
- If made within 10 days, request that services continue while appeal is pending
- Name of representative, if any
- Can submit more information from doctor, other medical professionals, support persons, and others

C. Preparing for the Fair Hearing

Request documents/information from Department of Public Welfare/Medical Assistance managed care health plan/Waiver agency.

Gather documents/witness statements:

- Doctor's prescription and statement of why requested equipment/service is medically necessary
- Statement from physical therapist, occupational therapist, speech-language pathologist, audiologist, etc. regarding medical necessity
- Description of equipment/service and provider's statement
- Photos or videotape of condition without equipment or service

Prepare live witnesses to testify at the hearing:

- Applicant/recipient/consumer
- Doctor and other medical professionals
- Support person or caregiver (family member or professional)
- Equipment or service provider
- Your witnesses can testify in person or by telephone (be sure to contact hearing officer to arrange for speaker phone)

Find out about the other side's case:

- Request documents, copies of file
- Request name and credentials of decision maker
- Request expert's credentials
- Request names of witnesses

Subpoena other records/documents/witnesses

Contact hearing officer before the fair hearing:

- Speaker phone
- Size of hearing room
- Accommodation issues
- Confirming enough time has been set aside

D. The Fair Hearing

The Department of Public Welfare/Medical Assistance managed care health plan/Waiver agency goes first.

Your Cross Examination: Do No Harm.

Some Cross Examination Questions:

- Did you speak to the doctor and physical therapist/occupational therapist/speech-language pathologist/audiologist/etc.?
- Have you ever met/examined the applicant/recipient/consumer?
- What is your medical training/background?
- Have you approved anything like this before?
- What alternative equipment/service do you think would be adequate to treat the person's disability or condition?

OBJECTIONS to be sure to make:

- Objecting to changing the reason for the denial from what was stated in the denial letter
- Objecting to any testimony on any other reason than what was stated in the denial letter
- Objecting to use of documents not provided ahead of time
- Objecting to testimony of witnesses not identified ahead of time
- Objecting to hearsay

Present Your Case: witnesses and documentation.

Send a Post-Hearing Letter or ask to leave record open so that you can submit more documentation.

E. Request Interim Assistance

If hearing officer does not issue decision within 90 days of your filing an appeal.

F. Request Reconsideration or Appeal to Commonwealth Court

Request Reconsideration within 15 days of unfavorable hearing decision or appeal to Commonwealth Court within 30 days of unfavorable hearing decision

The rules concerning requesting Reconsideration versus filing a lawsuit are complicated. It is advisable to consult with a lawyer before deciding whether to request Reconsideration or file a lawsuit.

II. MEDICAL ASSISTANCE COMPLAINTS AND GRIEVANCES: MANAGED CARE

You can file both an appeal (fair hearing) and complaint or grievance if you are enrolled in a Medical Assistance managed care health plan (HealthChoices or voluntary managed care).

A. Complaint

You disagree with participating provider, coverage, operations, or management of your Medical Assistance managed care health plan.

B. Grievance

You disagree with the Medical Assistance managed care health plan's decision that the equipment or service is not medically necessary or appropriate.

C. Procedure for Complaint and Grievance

- First level complaint or grievance
- Second level complaint or grievance
- External review of complaint or grievance

Deadlines: See "What if I Disagree with My Medical Assistance Health Plan? Grievances, Complaints, and Fair Hearings." Pennsylvania Health Law Project. www.phlp.org.

File complaint or grievance within 10 days to have benefits continue.

III. WHO TO CONTACT FOR HELP:

Disability Rights Network of Pennsylvania
800-692-7443 (toll-free voice)
877-375-7139 (TTY)
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