

**MEDICAL ASSISTANCE AND MEDICAID WAIVERS:
APPEALS, GRIEVANCES, AND COMPLAINTS**
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 APPEAL: FEE-FOR-SERVICE AND MANAGED CARE (INCLUDING MEDICAID WAIVERS)

A. The Appeals Process

1. Denial Notice

Application, equipment, or services are denied.

Reason for Denial – Department of Public Welfare/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 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.

2. Appeal

***Within 10 days** to have services continue.

Within 30 days from 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 if your appeal was filed late for good cause, but do not delay!

The appeal letter:

- certified mail
- request face-to-face hearing (“fair hearing”)
- state that the equipment or service is medically necessary
- request lengthy hearing
 - be sure to 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

3. Preparing for the Hearing

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

Gather documents/witness statements.

- Doctor's prescription and statement of why requested equipment/services are medically necessary
- OT/PT/Speech therapist statement
- 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 or other health care professional – can testify in person or by telephone (be sure to call Hearing Officer to arrange for speaker phone)
- Caregiver (family member or professional)
- Equipment or Service provider

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.

Talk to the Hearing Officer before the hearing.

- Speaker phone
- Size of hearing room
- Accommodation issues

- Confirming enough time has been set aside

4. The Hearing

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

Your Cross Examination: Do No Harm.

Some Cross Examination Questions:

- Did you speak to the doctor/PT/OT, etc.?
- Have you ever met/examined the claimant?
- What is your medical training/background?
- Have you approved anything like this before?
- What alternative service/equipment do you think would be adequate to treat this condition?

OBJECTIONS to be sure to make:

- Objecting to their 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 they did not provide
- Objecting to testimony of witnesses they failed to identify
- 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.

5. Request Interim Assistance

If Hearing Officer does not issue decision within 90 days of your filing an appeal.

6. Request Reconsideration from the Secretary of the Department of Public Welfare

15 days from unfavorable decision.

B. The Next Step: Appeal to Commonwealth Court within 30 days

* 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 health plan.

B. Grievance

You disagree with managed care health plan's decision that the health care 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)
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