

Grievance, Appeals and Fair Hearings

What is the difference between a grievance and an appeal?

An appeal would be filed when the Medicaid managed care organization (also called the “MCO” or “Plan”) denies, reduces or terminates a service. For example, if you are receiving 5 hours/day of personal care and your MCO cuts your personal care to 3 hours/day, that is called an “adverse benefit determination (ABD),” and you can file an appeal.

A grievance would be filed if you are unhappy with the MCO. For example, you could file a grievance if you were treated rudely.

Filing and resolving a grievance or appeal with the MCO

Grievances and appeals can be filed orally or in writing; however, an oral request for an appeal must be followed with a signed appeal within 10 days (unless the request is for an expedited appeal.) The best practice is to file a written request with the MCO. The member handbook provides instructions and information for both grievances and appeals. In addition, any notice of adverse benefit determination should include instructions on how, where, and when to file an appeal, which is discussed more below.

Expedited appeal

Enrollees have the right to an expedited appeal if the standard time for deciding the appeal (30 days) “could seriously jeopardize the enrollee’s life, physical or mental health, or ability to attain, maintain, or regain maximum function.”

What are the time standards for grievances and appeals and what notice is required?

- Grievance – can be filed at any time and must be decided within 90 days.
- Standard appeals – can be filed orally or in writing within 60 days from the date of the adverse benefit determination notice and must be resolved within 30 days.

- Expedited appeals must be resolved within 48 hours after the MCO receives the request whether orally or in writing. The MCO shall also provide oral notice to the enrollee by close of business on the day of resolution, and written notice to the enrollee within two (2) calendar days of the disposition.

Note that these time frames can be extended if the enrollee requests an extension. However, if the MCO requests an extension, the MCO must demonstrate the need for additional time and why the extension would be in the enrollee's best interests.

How to ensure that benefits are continued during the appeal?

When an enrollee's services are terminated, suspended or reduced, she/he has the right to receive continued coverage of the medical services pending the outcome of an appeal and fair hearing if all of the following occur:

- the appeal involves termination, suspension, or reduction of a previously authorized service;
- services were ordered by authorized provider;
- period covered by original authorization not expired;
- enrollee timely files for continued benefits on or before **ten calendar days** of the MCO's notice of adverse benefit determination.

If the enrollee is provided with continued coverage of the service and ultimately loses the appeal, the MCO can ask that the enrollee pay back the cost of the service

Notice of Appeal Resolution

The MCO is required to send a written notice of the appeal resolution that includes:

- Results of resolution process and completion date; and if the result was not completely in favor of the enrollee, the notice must include:
 - Information about the right to request a fair hearing and how to do so, and
 - Information on the right to continued benefits pending a final determination.

Fair Hearings

Statutory right

Under the federal Medicaid Act, Medicaid beneficiaries have the right to a fair hearing if a claim for medical assistance is denied or not acted on with reasonable promptness.

Exhaustion requirement

As discussed above, with some exceptions, enrollees must first go through the MCO's appeal process before a fair hearing can be requested. Because of this, a fair hearing can only be requested after the MCO issues its notice that the adverse benefit determination has been upheld.

Filing and Parties

Medicaid appeals related to services for persons enrolled in a managed care plan are directed to the Florida Medicaid Agency, [AHCA](#)). While it is not necessary to be represented by a lawyer in a fair hearing, it is generally helpful to have one. You can contact your [local legal aid program](#) to request assistance.

Hearing rights

Enrollees have the right to:

- bring witnesses;
- make legal and factual arguments in person and in writing;
- present evidence, including new evidence not available at time of decision;
- review medical records and case files free of charge and in advance.

The hearing officer can also obtain, at agency expense, a medical assessment from someone not involved in the original decision.

Requesting the case file

Enrollees also have the right to receive a complete copy of their case file. This should be provided by the MCO free of charge and a reasonable time before the hearing,

The enrollee is also entitled to copies of documents or records relevant to the MCO's adverse benefit determination.

Relief

The hearing officer's Final Order should be provided within 90 days of the request for a fair hearing, unless the time period is waived by the enrollee or extended by the hearing officer.

Enrollees can also request corrective action retroactive to the date of the MCO's error, including payments made by the enrollee to cover services that were improperly terminated.

To request a Fair Hearing: email or write to:

Email:

MedicaidHearingUnit@ahca.myflorida.com

Mail:

Agency for Health Care Administration;

Medicaid Hearing Unit

P.O. Box 60127

Ft. Myers, Florida 33906

You can also ask for a Fair Hearing by calling the Medicaid Helpline at 1-877-354-1055.

When asking for a Fair Hearing, include the following information:

- Your name.
- Phone number.
- Mailing address, and email (if available).
- The name of the Medicaid recipient.
- Their Medicaid ID number.
- Some details about the services that were denied, reduced or stopped.

You can also submit any notices related to the Hearing Request. It is also important to state your preferred method of contact: mail or email.