

MEDICAID SERVICES MANUAL
TRANSMITTAL LETTER

February 22, 2018

TO: CUSTODIANS OF MEDICAID SERVICES MANUAL
FROM: LYNNE FOSTER, CHIEF OF DIVISION COMPLIANCE
SUBJECT: MEDICAID SERVICES MANUAL CHANGES
CHAPTER 3100 – HEARINGS

BACKGROUND AND EXPLANATION

Revisions to Medicaid Services Manual (MSM) Chapter 3100 – Hearings, are being proposed for consistency with the federal policy language in the Code of Federal Regulations (CFR), Title 42, Chapter IV, 431 Subpart E. Language specifying the circumstances under which a provider can request an expedited fair hearing for a recipient is proposed.

Throughout the chapter, grammar, punctuation and capitalization changes were made, duplications removed, acronyms used and standardized, and language reworded for clarity. Renumbering and re-arranging of sections was necessary.

Entities Financially Affected: All provider types are affected by this regulation.

Financial Impact on Local Government: Unknown at this time.

These changes are effective February 23, 2018.

MATERIAL TRANSMITTED

CL 31486
Chapter 3100 - Hearings

MATERIAL SUPERSEDED

MTL 20/17
Chapter 3100 - Hearings

Manual Section	Section Title	Background and Explanation of Policy Changes, Clarifications and Updates
3100	3104.1B.1	Added the words “(only under circumstances described below)”and “Providers may file a request only in cases where the recipient is unable to act on their own behalf, either because of physical incapacity or mental incapacity. Additional documentation may be required to demonstrate the incapacity on a case by case basis.”

	MTL 20/17
DIVISION OF HEALTH CARE FINANCING AND POLICY	Section: 3104
MEDICAID SERVICES MANUAL	Subject: RECIPIENT HEARINGS

3104 RECIPIENT FAIR HEARINGS

3104.1 FAIR HEARINGS

3104.1A MEDICAID SERVICES STANDARD FAIR HEARING

1. WHO MAY REQUEST

A recipient or his authorized representative may request a Standard Fair Hearing. A request for a Fair Hearing can be submitted via the internet, telephonically, in person, through other commonly available electronic means and in writing and signed by the recipient or the recipient's authorized representative.

2. DATE OF REQUEST

The date of the request for a Standard Fair Hearing is the date the request is received by the DHCFP office. The request must be received by the DHCFP office within 90 calendar days from the Notice Date, unless a recipient can substantiate "good cause" for not doing so. When the deadline falls on a weekend or holiday, the deadline is extended to the next working day.

The request for hearing must contain the recipient's name, address, telephone number and Medicaid number as well as the name, telephone number and address of the authorized representative, if applicable.

Recipients enrolled in a Managed Care Organization (MCO) must request a Fair Hearing no later than 120 days from the date on the MCO's Notice of Decision (NOD) (Action).

3. SUBJECT MATTER

The DHCFP must grant an opportunity for a hearing to:

- a. a recipient who requests it because his request for services is denied, reduced, suspended or terminated;
- b. a recipient who requests it because his request for services is not acted upon with reasonable promptness;
- c. a recipient who requests it because he believes the agency or managed health plan has taken an action erroneously;
- d. any resident of a nursing facility who believes the facility erroneously determined that he must be transferred or discharged;

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- e. any recipient who requests it because he believes the State has made an erroneous determination with regard to the Pre-admission Screening and Resident Review (PASRR) as outlined in Section 1917(e)(7) of the Social Security Act;
- f. any recipient who is assigned (locked in) to using one pharmacy for all controlled substance prescriptions.

This includes an adverse determination that the recipient does not require specialized services as defined in 42 CFR §431.201, 431.206 and 431.220 as determined by a PASRR.

Pursuant to 42 CFR §483.204, the state will provide a system for a resident of a NF to appeal a notice from the NF of intent to discharge or transfer the resident. Upon receipt of the discharge notice, the resident may request a Fair Hearing via the internet, telephonically, in person, through other commonly available electronic means or by submitting the request to the DHCFP. The DHCFP will inform the Department of Administration of the residents request for a Fair Hearing. The DHCFP does not take an adverse action against the resident; rather the facility takes the action via the discharge. The DHCFP is not a party to the action.

3104.1B MEDICAID SERVICES EXPEDITED FAIR HEARING

1. WHO MAY REQUEST

A recipient, his/her authorized representative or a provider acting on a recipient's behalf (only under circumstances described below) may file for an Expedited Fair Hearing if the clinical documentation shows that the time permitted for a Standard Fair Hearing could jeopardize the individual's life, health or ability to attain, maintain or regain maximum function. The Expedited Fair Hearing request must be submitted with pertinent medical information that supports the reason for the urgent need of the expedited timeframe. Providers may file a request only in cases where the recipient is unable to act on their own behalf, either because of physical incapacity or mental incapacity. Additional documentation may be required to demonstrate the incapacity on a case by case basis. A request for an Expedited Fair Hearing can be made via the internet, telephonically, in person, through other commonly available electronic means and in writing.

2. DATE OF REQUEST

The date of the request for an Expedited Fair Hearing is the date the request is received by the DHCFP office.

The request for an Expedited Fair Hearing must contain the recipient's name, address, telephone number and Medicaid number, as well as the name, telephone number and address of the authorized representative and/or provider, if applicable, and must include all pertinent medical information that supports the reason for the urgent need of the expedited timeframe.