

Applies to:
ADRC
Tribal ADRS

Appeal Policy for Adverse Benefit Determinations

Last Revised: September 2020

This policy applies to Aging & Disability Resource Centers (ADRCs) and Tribal Aging & Disability Resource Specialists (Tribal ADRS) herein referred to as “agency” or “staff.”

Purpose

To ensure the agency maintains and implements due process policies and procedures to inform people of their appeal rights for adverse benefit determinations.

This policy describes the customer’s right to file appeals related to adverse benefit determinations determined by the agency. The goal of the appeal procedure is to allow customers of the agency to exercise their due process rights with a simple and easily understood process.

The agency will cooperate with any appeals conducted by the Wisconsin Department of Health Services (DHS), the Division of Hearings and Appeals (DHA), an external quality review organization, or an external advocacy organization.

Definitions

- 1. Adverse Benefit Determination:** The denial of functional eligibility under Wis. Stat. § 46.286(1)(a) as a result of the ADRC or Tribal ADRS’ administration of the long-term care functional screen, including non-nursing home and functionally ineligible levels of care and cost share determination.
- 2. Appeal:** An official written request to change the outcome of a determination related to eligibility for public benefits or the reduction, elimination, or denial of services provided as part of a public benefit.
- 3. Appeal System:** The overall system the agency implements to handle appeals of adverse benefit determinations as well as the processes to collect and track information about them.
- 4. State Fair Hearing:** A de novo review under Wis. Admin. Code ch. HA 3 before an impartial administrative law judge of an action by the Department, a county agency, an ADRC, an ADRS, a managed care organization (MCO) or an IRIS consultant agency (ICA).
- 5. Delay:** Functional or cost-sharing determinations made after 30 days from the initial request as described Wis. Admin. Code § DHS 10.31.

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Assisting Customers to Understand and Exercise Their Rights

Any customer may file an appeal when there is an adverse benefit determination. The agency shall support customers in the appeal process and shall refrain from any reprisal or threat of reprisal against any customer registering an appeal.

All customers of the agency who request public benefit assistance will be given information about their appeal rights, the appeal procedures, and the contact information for external advocacy agencies. This information will be provided to the customer by the agency staff who assisted them with their request for public benefit assistance.

State Fair Hearing

A request for a fair hearing is an official request to change the outcome of a determination related to eligibility for public benefits or the reduction, elimination, or denial of long-term care services covered under Wisconsin Medicaid, Family Care, Family Care Partnership or IRIS. A fair hearing occurs before an impartial administrative law judge. During a fair hearing the petitioner or the petitioner's representative presents the reasons why an action or inaction by DHS, a county agency, an ADRC, a Tribal ADRS, an ICA, or a MCO in the petitioner's case should be corrected.

If the agency determines that a person is functionally ineligible for Medicaid long-term care services, the staff will send the Notice of Denial of Functional Eligibility with appeal rights to the customer. If the agency determines that a person meets a non-nursing home level of care, the staff will send the Notice of Non-Nursing Home Level of Functional Eligibility with appeal rights to the customer.

A customer may directly appeal to DHA within 45 calendar days after receipt of a notice of decision/adverse action, or a failure to act. A customer may appeal any of the following outcomes:

- Functional ineligibility including determinations of a non-nursing home level of care.
- Financial ineligibility for long-term care benefits.
- Medical remedial cost-share.
- A delay in determining eligibility.

Requests for a fair hearing must be filed in writing with DHA by using one of the forms listed below or by writing a letter and sending it to:

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Request for Fair Hearing
c/o DOA Division of Hearings and Appeals
P.O. Box 7875
Madison WI 53707-7875
Phone: 608-266-3096
608-264-9853 (TTY)
Fax 608-264-9885

Forms:

[Request for a State Fair Hearing - ADRC](#)

[Request for a State Fair Hearing – MCO](#)

[Request for a State Fair Hearing - IRIS](#)

If the customer or their legal decision-maker requests assistance with writing a fair hearing request, the ADRC shall provide that assistance.

When the agency is notified by DHA that an individual has requested a fair hearing, the agency must submit an explanation of its actions to DHA within ten calendar days. The agency must also send a copy of this explanation to the customer, the customer's legal decision-maker (if known), and DHS if requested by DHS.

DHA is required to make a decision through the fair hearing process within ninety calendar days of the date the individual files a request for the hearing.

Support for MCO Members and IRIS Participants

ADRCs may learn about issues or concerns that MCO members or IRIS participants are experiencing during disenrollment counseling. Staff may provide assistance to MCO members and IRIS participants with filing a complaint regarding the MCO, ICA or FEA. Staff may also provide assistance to MCO members and IRIS participants who receive an adverse benefit determination notice from the MCO or ICA with filing an appeal.

Training

The agency will train staff to support customers who have experienced an adverse benefit determination or who have a complaint or grievance against an MCO, ICA, or FEA. Staff will be familiar with all of the advocacy organizations that are available to customers and know when customers should be referred to one of these organizations. Staff will be familiar with policies and procedures for requesting a fair hearing and filing a complaint or grievance

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against an MCO, ICA, or FEA, and will be prepared to fully and adequately assist customers with these process.