



Senior & Long Term Care Division

Community Services Bureau

Medicaid Home Health Policy Manual

Title: Home Health 302
Section: GENERAL PROGRAM ADMINISTRATION
Subject: Fair Hearings
Reference: ARMs 37.5.103, 37.5.304, 37.5.305, 37.5.307, 37.5.310, 37.5.311, 37.5.313, 37.5.316, 37.5.318, 37.5.322, 37.5.325, 37.5.328, 37.5.331, 37.5.334, 37.5.337, 37.40.1012 and 37.40.1121
Supersedes: Policy 302, Issued 05/01/1999

REQUIREMENT

Any Medicaid provider or Medicaid member may appeal any adverse action made by the Department which is felt to have affected the amount or scope of Medicaid payments received and/or the amount or scope of Medicaid services.

ADVERSE ACTION

Examples of an adverse action that involves a member include:

1. An action by the Department denying, suspending, reducing or terminating benefits of a member, or an action by the Department demanding repayment of or to recover an overpayment of benefits to a member; and
2. An action by the Department establishing conditions on the manner or form of benefits, including restrictive benefits or protective payments, or establishing conditions for the receipt of benefits, including work requirements.

Examples of adverse action that involves a provider agency include:

1. An action by the Department to deny, suspend, reduce, revoke or terminate licensure, registration, certification, or enrollment of a provider or to fail to renew certification, enrollment, licensure, or the registration certificate of a provider who has applied for renewal;
2. An action by the Department establishing the rate of reimbursement for a provider or denying in whole or in part a provider's claim for services or items; and

3. An action by the Department demanding repayment of an overpayment made to a provider, or to impose a penalty or sanction against a provider or a provider agreement for the Medicaid program.

REQUESTING FAIR HEARINGS

A member or provider agency must request a hearing in writing and mail the request to the Office of Fair Hearings at P.O. Box 202953, Helena, MT 59620-2953.

A member's fair hearing request must be received in writing within 90 days from the date of the mailing of the notice.

A provider agency's fair hearing request must be received in writing within 30 days from the date of the mailing of the notice.

CONDUCTING FAIR HEARINGS

The Department's Administrative Law Judge (ALJ) conducts the fair hearing. Decisions by the ALJ are binding and must conform to federal and state laws, regulations or policy, and must be based exclusively on evidence and other material introduced at the hearing. A fair hearing will be preceded by an administrative review of the action.

BENEFITS

Benefits provided to a claimant pending a hearing decision are subject to repayment by the claimant if the adverse action is upheld.

ADMINISTRATIVE REVIEW

Upon the request for a hearing by a member or a provider agency, the Department shall conduct an administrative review with the purpose of resolving the case and avoiding an unnecessary hearing. The review may be conducted in person or by telephone. In person reviews shall be conducted at a place designated by the reviewer and reasonably convenient to the member or as designated by the ALJ.

An administrative review includes the following:

1. An informal conference with the Department; and
2. The preparation of an administrative review report which includes a review of relevant facts, legal

authority and circumstances involved in the adverse action by the Department.

3. The Department representative designated to conduct the administrative review will schedule the review and must notify the member or provider agency of the date, time and place of the conference. If the member or the provider agency cannot appear at the date and time set for the conference, the member or provider agency must be given a reasonable opportunity to reschedule the conference.
4. An adverse action may be reversed or modified by the Department at any time before, during or after the administrative review. In this case, a hearing will not be held unless the member or provider agency is aggrieved by the modified adverse action and request the hearing be held.