

Preparing for a Medicaid Fair Hearing

DISABILITY RIGHTS TEXAS
2019

Medicaid Fair Hearings

- Informal
- Typically conducted by phone
- Hearings Officers are not lawyers or medical professionals
- No rules of evidence or procedure
- Usually last 2 to 3 hours

Resources

- 42 C.F.R. 431 Subpart E (42 CFR 431.200-431.246)
- Texas Uniform Fair Hearing Rules (1 TAC Part 15 Chapter 357)
- HHSC Fraud and Fair Hearing Handbook
- Texas Medicaid Provider Procedures Manual (TMHP)
- MCO policies
- TAC provisions related to the services or benefits at issue

PRE-HEARING: THE DENIAL NOTICE

- Must be mailed at least 10 days before the date of the intended action, and must include:
 - “A clear statement of the specific reasons supporting the intended action.” 42 C.F.R. 431.210(b).
 - The specific regulations that allegedly support the action. 431.210(c).
 - The date by which a fair hearing must be requested.
 - Information on how to request an internal appeal and a fair hearing.
 - The circumstances under which services will be continued if a hearing is requested. 431.210(e).

INTERNAL APPEAL vs FAIR HEARING

- An internal appeal and a fair hearing are different
 - The internal appeal provides the health plan the opportunity to review its decision prior to proceeding to fair hearing
 - A different health plan doctor reviews the beneficiary's information, and decides whether the decision to reduce or deny services was correct

INTERNAL APPEAL & FAIR HEARING TIMELINES

Internal Appeal

- It is now required that the beneficiary go through the internal appeals process.
- Must request an internal appeal within 60 days from the date of the notice of adverse determination.
- The MCO has 30 days from the receipt of the appeal to make a decision on the appeal.

Fair Hearing

- Must request a fair hearing within 120 days from the notice of adverse benefit determination.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Preparing for a Medicaid Fair Hearing

Also available as part of the eCourse

[Medicaid Appeals and Special Needs Trusts](#)

First appeared as part of the conference materials for the
15th Annual Changes and Trends Affecting Special Needs Trusts session
"Medicaid Appeals"